VI: 2009 nr 2
Krakowskie Studia Międzynarodowe

Andrzej Bryk

WHENCE VIRTUE? WHENCE JUSTICE? WHENCE MORALITY? AMERICA AND MODERNITY

"Home, I'll never be"
Jack Kerouac, *On the Road*

The United States is a quintessentially modern nation, in fact the first modern nation in history. In America all the problems of modernity happened first, and all the answers to the problems encountered have been tried accordingly. In the 1830s Alexis de Tocqueville defined the problems America experienced as a universal problem of democracy, but democracy here could as well mean modernity. The experiment which was called America has for this reason always been a challenge for Europe and the rest of the world, with very ambivalent feelings towards it. For some, hatred of America comes easily, spontaneously; for others love and reverence for her is spontantenous. Both passions come from the same understanding: that in America everything which has happened to human beings may happen to the people of modernity sooner or later. For some, it is a reason for trembling with fear. For others the reason for hope. This hope comes from a realization, to paraphrase Winston Churchill, that if in a modern civilization we encounter a situation when everything has been tried and failed, there is still hope that Americans will come with a proper solution to the challenge. In that sense, America is a homeland of all people of modernity, whether we like it or not, and we may say that whoever hates America, hates today, to a certain extent, humankind.

The United States is among contemporary nations the most modern in a cultural sense, although also, paradoxically, a profoundly traditional one. This is an

incredible baroque country, unpredictable, more political at the community's and personal level than administered and shaped at the central level by the elites, a depressing condition of the European Union project today. Extremely complicated, difficult to comprehend by someone who comes from set civilizations, America is a country whose modernity was from the very beginning additionally enhanced by its puritan, protestant fierce individualism, and a burning, haunting fear of failure. Failure to realize a dream, a promise of a new opening of humanity. This is a country which has constantly experienced the alternating periods of tranquillity and rage, self-contentment and a profound self-doubt, a civilization of simultaneous conceit and flagellation, of self-confidence and terror of everything being in a constant change, but at the same time a constant chance for something new, for better but also for worse.

America is thus as a country, at both a national and at personal level, obsessed by this quintessential question of modernity, asked by each individual from dawn to dusk incessantly: Who am I?, Where am I going to?, What is my identity?, Does it exist?, What moral conduct should I pursue in conditions where everything is possible, but at the same time there is a gnawing probability that, in fact, nothing matters? These individual questions translate into national discussions, obsessed with a confrontation of the American Credo with the reality of its fulfilment, the questions Who are we as a nation?, What is our identity? Last but not least, Are there in us any real virtues, not fleeting instances of desire rationalized by a cunning modern reason as virtues, but the real virtues, harnessing our desires and forcing us to be better than we ourselves are? In other words, Is there anything in life really worth fighting and dying for, or are we just a bunch of people driven by moral autocreation, material consumption and fun propelled by will and aided by science, and setting our common rules by utilitarian means, of which the craziness of ever-changing new ideologies of political correctness provide us with a placebo of a communal sense? And finally, Is it possible to devise a political system which would make us moral, heroic people in the conditions of modernity, or does the system only have to justify and tame our low desires rationalized as ideals?

These existential, cultural questions of modernity which Americans faced from the beginning had to be confronted politically in 1776, and since then they have incessantly been dealt with by them. Americans, more or less consciously, had to face such questions first, as a collective entity, not only at the level of self-conscious elites. They had to face them at every level of their communal existence, whether religious, cultural, social, political, or, last but not least, constitutional. In America everything may happen, since this is a modern society *par excellence*, where there exists a common psychological and cultural conviction that there are, in fact, no taboos to experiments with one's life, no challenges which are defined as insurmountable, no defeats which are final.

America as Magic

America, ever since Columbus, has been an object of imagination rather than a fragment of a possessed and cultivated land "in the centre of an immense continent", as Alexis de Tocqueville put it. It has been treated as an object of different, often conflicting emotions, both hateful and loving, but always with a clear recognition that one has been dealing with an absolutely unprecedented phenomenon. Unprecedented not in terms of geography, land, riches, but in terms of a distinctive way of thinking, daring to subvert everything so far created by known civilizations, and daring to recreate reality anew. America was thus from the beginning, long before the thirteen colonies rebelled against Great Britain, a huge canvas onto which Europeans, non-Europeans and in fact Americans themselves would endlessly project their fondest, wildest and sometimes perverted dreams and fiercest nightmares.

For this reason it became the first modern civilization, that is the one which was to be a creation of wishful thinking. The land of efforts, in mind and in practice, which challenged human imagination by unexpected vistas, and unintended consequences breeding resentments. In America an idea of magical transformation, the very idea of modernity, constitutes a parallel and rival "religion" to all hitherto known religions, including its dominant Protestant Christianity, a rival to all set cultures and ways of behaviour and thought, a civilization in which "anything can happen… Anything at all".[1] Out of such logic of thinking comes a commercial civilization, since money, naturally, gives the possibility to transform one's life. But commercial civilization also connotes a modern urban life as a place where this flexible transformation, this possibility of magic done to one's life, is possible by its anonymous setting, disruption and interchangeable transformation of human characters. It assumes solitude which does not require limiting bonds and loyalties, let alone customary ties, on the way to a final fulfilment constantly dreamed about.[2]

This impulse that anything can happen is not of course an impulse for everything. On the contrary, it is just a desire for Eden, a burning longing to regenerate one's life again, to recover the lost, or never possessed, innocence of a soul and body, to feel the intensity which we all know is possible, but never actual. This is a dream of Eden as a yearning for a total transformation, for, in fact, Earthly salvation. It is finally an attempt to deny the reality of man's objective existence in a particular time and place; the existence permeated by this pervasive sense of incessant alienation, an attempt to try again and again, so Eden can finally be grasped.[3] Or Hell, if one fails and magic turns into a wasteland. A stark, and imaginable consequence of failure, but first of all *hybris*, when, in the words of John Winthrop in 1630, this building of the "citte upon a hill… to do Justly, to love mercy, to walke

[1] The words of one of the characters of F. Scott Fitzgerald's, *The Great Gatsby*, New York 1953, p. 69.

[2] P. Berger, *Facing Up to Modernity*, New York 1997, p. 218.

[3] This daring spirit of America as a modern civilization was already well captured by E. Burke in his parliamentary *Speech in Conciliation with America*, ed. J. Villiers Denney, Chicago 1898, p. 410–444.

humbly, with our God [and] make others Condicions our owne rejoice" turns into its opposite when "we shall be made a story and a byword through the world, wee shall open the mouthes of enemies"[4].

Americans were modern, and this omen of unlimited autocreation of one's own life, the very essence of modernity, was already symbolically institutionalized at the inception of republican America. A one dollar bill constituted such a symbolic institutionalization. It is a magic document. What we have on it is the great seal of the American Republic wish an eagle on the front. But the reverse side is peculiar, and in fact sinister. It shows a pyramid with a human eye at its apex, this allegedly masonic symbol being framed by two Latin inscriptions from Virgil. One, "Novus Ordo Seculorum", means "new order of time", "of ages". The other, "Annuit Coeptis", means approximately "begun under divine auspices". Thus time was to begin anew again in America, because it was a uniquely favoured civilization, the point zero of history was within human grasp again. If we apply the cultural code of the seventeenth-century Puritan Covenant, of America being the religious equivalent of the same image printed in 1792 on a one dollar bill, we realize that we have here essentially the same project. America was a Covenant nation, under God's protection, but a peculiar God, one who gave licence to recreate a corrupted world anew, and with it a new human being.

This was essentially a vision of unbound possibilities, directed by will, as a task placed on people collectively, and each individual separately, the very essence of modernity. In this New World the greatness of Eden, the Paradise Garden would be restored again. This way the Puritan code and the one dollar bill were different faces of the same phenomenon, one openly religious and Christian, the other expressed in political terms. Modernity could thus be portrayed as an imaginary place of magic, defining human existence in terms of unbound possibilities. In other words, as a process of a gargantuan, endless autocreation by means of the human mind, possibly within the terms of the imposed from above Covenant, that is Christian morality.[5] This constituted a revolution unknown in human history, since one unspoken sinister danger was looming over the horizon of such an endeavour, the sneering face of the Biblical revolt of man in the Garden of Eden, of projecting one's own will onto the will of God, and declaring that God in fact is me.

This outcome was looming large both in Protestantism per se and modernity as such, and this conjunction of both in America was a phenomenon which gave its version of it a peculiar, millenarian and "chosen" confidence. Modernity seemed to contain within its logic a proclivity to reject step by step subconsciously any

---

[4] J. Winthrop, *A Model of Christian Charity*, [in:] *An American Primer*, ed. D. J. Boorstin, New York 1966, p. 40–41.

[5] This millenarian hope of transformation of this corrupted world is analyzed, among others, in: E. Lee Tuveson, *Redeemer Nation: The Idea of America's Millennial Role*, Chicago 1980, p. 52–90; S. Bercovitch, *The Puritan Origins of the American Self*, New Haven 1975, p. 72–108; W. McDougal, *Freedom Just Around the Corner: A New American History, 1585–1828*, New York 2004; A. M. Codevilla, *Transcendental Hustlers*, "The Claremont Review of Books", Fall 2009, p. 51.

outward, universal norms of human conduct, not only those coming from the acquired experience or cultural norms. It, in fact, also chose to discard natural law and religion as sources of God's immutable laws making them servants of the "self", the gradually happening essence of the American religious experience as well. The way of life of the "self" was inexorably commensurate with the way of life the Covenant was meant to be. Me was the will of God, America was its tool.

Modernity as magic, as utopia, containing a desire of endless autocreation, found in a modern urban, commercial life its perfect setting. Commercial civilization creates money and money create possibilities. It gives power to desire of self-transformation to get outside of the set world of limitations of any sort. This release of money as a common equalizer was thus the essence of modernity's means of devising an instrument of achieving an endless autocreation, with the corresponding idea of cleaning out the debris of history, the obstacles to a final fulfilment. There is a devastating potential in such a civilization, a revolutionary danger of making one's desire the essence not only of the individual's life but of social life in general. The consequences of moral and commercial modernity were felt in America practically from the beginning. But soon a gnawing sense of doubt began to be felt.

The idea was put forth that Americans might not worship God and His righteousness and as a consequence might not be rewarded with the fruit of their labour treated as His gift, but that they might use God as a pretext for feeling good about satisfying their extravagant desires. In that sense, religion was an engine of prosperity which in turn reshaped religion and channelled its energy into material betterment. From the beginning this connection between individual work and religious worship, essentially a Calvinist idea, uprooted from the European economic as well as institutional limitations, both created new ways of worship and quickly secularized the focus of American Protestants' devotion. This was an obsession with material betterment, quickly recognized as a spiritual problem by the most prominent preachers.[6]

America was a quintessentially modern society, already liberated from the most debilitating limitations of the "ordered" European civilization.[7] This connection between capitalism and religion was there most intimate, accepted and troubling. A danger of worship being secularized into material obsession, and the slow turning of the Christian God into a projection of one's own image of Him to justify individual wishes, was already there at the beginning, a situation enhanced by America's wild religious pluralism. This pluralism was not disciplined by the seats

[6] Increase and Cotton Mather decried the country's central problem: "Religion brought forth prosperity and the daughter destroyed the mother". Jonathan Edwards preached that every individual's responsibility before an angry God was not to follow this path. Cadwallader Colden, a preacher in the 1740s, thundered "the only rule of life propagated among the young people [in America] is gaining money, and people are assessed only on the basis … of money, which they have". In: P. Higgonet, *Sister Republics – The Origins of French and American Republicanism*, Cambridge Mass. 1988, p. 84.

[7] J. Hector St John de Crevecoeur observed this psychological disposition well: *What is an American?*, [in:] *The Faber Book of America*, ed. C. Ricks, W. L. Vance, London 1992, p. 241–242.

of religious orthodoxy like Rome or London, far away and insignificant. Moreover, at the institutional as well as individual level, pluralism constituted a natural outcome of life in America. Religious freedom coupled with a sense of self-government and abundant possibilities of material betterment gave Americans a unique feeling of having all options in life open to change, whether it was their material status or the shape of worship[8]. Religious pluralism and individualism, this feeling of unlimited choice and radical material advancement within the life span of everybody, created among Americans a sense of omnipotence religiously motivated, beyond the constraints not only of the institutional European limits, but also limits coming from human relations on which an individual was, but had not to be, entirely dependent.[9]

The American Revolution began not only in the name of the abstract principles of the Declaration of Independence, but was also rooted in a Protestant insistence on human equality and the common-law tradition of respect for ancient custom, which made self-government, religious freedom, economic opportunity, and soon territorial growth, as well as export of democracy around the world, inseparable.[10] This modern political project which was being devised in the wake of the American Revolution was thus conscious of both the dangers and the hopes of the new enterprise. For this instance, the incessant political bickering between the proponents and the opponents of the new federal construction was a discussion, more or less consciously, between modern people, operating within the confines of a republican self-government. That posed the most basic problem of what was to sustain this government. Americans feared the devastating potential of commercial modernity and wanted to tame it. The very question of character, that is of virtue, of the moral quality of the people sustaining the American modern regime was at the centre of the Founders' thought. This concern elicited references to modern and ancient inspirations, in conditions of the commercial civilization in which the pursuit of happiness, bordering on a hunt for a fulfilment of desire, was obliterating all the higher sources of obligations, the necessary conditions for creating a viable, moral and self-sustaining community.

Modernity as Endless Autocreation

Whatever the native and original conditions which created the American modern mind, with its fascinating mélange of traditional and modern virtues, this shaping of

[8] This feeling is well captured by a dialogue between a daughter and a mother on the American frontier at the beginning of the nineteenth century: "What are you doing, darling? I am drawing God. Don't be silly. No one knows what God looks like. Well, then, they will learn soon." Quoted in: M. E. Martin, *Religion in a Republic*, Boston 1987, p. 35. On this ability to escape the orthodoxy of the official church in Europe see G. Will, *American Adam*, "The New York Review of Books", March 6, 1997.

[9] This danger of such a modern civilization was defined well by Nathaniel Hawthorne, who observed that an individual was at risk of excluding himself from a "magnetic chain of humanity", a situation condemning one to total solitude. Quoted in: V. Sachs, *Idee przewodnie literatury amerykańskiej*, Warszawa 1992, p. 168.

[10] See on this connection: W. McDougall, *Freedom Just Around the Corner*...

the modern mind in general was part and parcel of a larger story of modernity, the unfolding drama of the Western world. In it's essence modernity is a will to shape reality according to one's own consciousness, that is reason and will, irrespective of the constraints not freely justified by this consciousness in an act of choice. Modernity has thus always been prone to a constant redefinition of reality and human life itself, in terms of the ideology of a particular time and place in history, even if it has often been understood as an escape from the ravages of it. It has been an incessant attempt to defy and deny reality, and with it man's objective existence in time, a temptation to reject life as such, with a corresponding assault on morality. "Liberation" from life and morality, defining human predicament and giving it a meaningful basis, has been its driving logic, a revolt against ontology as such, a consuming fever to save oneself by one's own means, quiteessentially Baron Munchausen's dream. It was this spirit defined by William Wordsworth's great poem *Resolution and Independence*, with its famous line: "By our own spirits are we deified."[11] The question of the universal basis of behaviour, that is morality justified from outside of the human autonomous "self", loomed here paramount.

The problem of morality, thus also virtues shaping character, irrespective of individual choices seeking desires, virtues creating a community of mutual obligations not stemming from a contract or utilitarian means, seemed to be a problem which could not be avoided. *Virtus Nobilitat*, virtue gives nobility and civilizes, was the most fundamental axiom of Western culture, in fact every culture, until modernity began to question it. But a deeper, less obvious side to virtue is the conviction that the world in which we live is worth something, that the world in which we conduct our affairs, the world of our experience had an innate value. That our lives in this world transcend our biological nature and teach us something meaningful enough to prevent us from a slide towards the nihilism of resignation, acedia, or mindless hedonism, in the face of intractable Being. In other words virtue can be understood as a general value, or disposition to derive from the existing reality a sense transcending the senseless existence of a contentious human animal. It is at the same time a prerequisite of human bonding, of human solidarity, since it assumes the common humanity of all striving towards a goal which transcends immediate, individual pleasures.

This is a perspective which claims that there are things worth sacrificing, and things which are worth living for, because of their inner, objective, universal moral value. Modernity constituted a rebellion against virtue both as conceived by the ancients and *Christianitas*, beginning one of the most fascinating quarrels in the history of philosophy, education, politics, or to put it simply, in the history of human dealings with reality, in fact the major front line of human approaches to reality. The ancients and Christianity, in various ways, took a meaningful and rich notion of nature as such as a standard for individual persons and human societies, as far as morals and also institutional arrangements were concerned. The moderns, in

[11] Quoted in: J. Hart, *Smiling through a Cultural Catastrophe: Towards a Revival of Higher Education*, New Haven 2001, p. 225.

equally various ways, came to regard nature, exactly at the moment when modern science was accelerating its knowledge of the universe, as something which was either indifferent or even hostile to human beings. As a consequence, nature ceased to be regarded as being any standard of behaviour for humans. In other words it provided little or no guidance in human affairs. That meant that morality was either to come from *fiat* grounded in religious precepts, or, once they were rejected, grounded in an autonomous reason unguided by anything outside of it.

As a result, also all human endeavours, including political ones, acquired an unlimited potential. This potential was limited only by either incapabilities of reason to overcome its own barriers, or the atrophy of the will to use it and change the world. To wit, since modernity's ascent, everything in reality has been up for grabs, to form it according to precepts born in an autonomous mind. The "self" became sovereign, moral autocreation its servant. The feud between the ancients and Christianity on the one hand, and the moderns on the other, has thus constituted a fundamental disagreement over the very nature of the world and our relationship to it. Plato, Aristotle, or the Stoics, as well as the great medieval thinkers such as St Augustine or St Thomas Aquinas, all belonged with the ancients, as did nearly all later, various schools of natural law. Machiavelli, Bacon, Descartes, Hobbes, Locke, Hume, Kant, as well as the majority of contemporary philosophers of the postmodern school, constitute the school of moderns.[12]

Modernity posed a definite problem for politics and a "regime", in Aristotle's sense of the world. Since modernity's ascent the latter has been looked upon not as a means to a definite moral end or ends, now deemed impossible to achieve, but as a system of institutional arrangements in which individuals pursue their ideas of happiness, that is their subjective notions of a good life. That means in practice an individual interest coming from the moral autonomy of the "self". Deprived of any universal ontological and anthropological anchorage, considered either impossible to be established, or non-existent per se, such an individual interest has a tendency to slide towards a desire of a particular moment, in turn justified by an autonomous, self-sufficient reason. A political order is conceived in such an ontological and anthropological vision merely as a neutral arena of the best environment for the achievement of a political stability, with rights expressing different shades of such individual desires. In the contemporary world the latter are increasingly becoming surreptitiously commensurate with a definition of human dignity. Man has become someone who defines himself by and demands the unequivocal recognition of such a desire as being equal to his human dignity. A state becomes in such a case a great stabilizer and watchman of a political order, and the rising prominence of the constitutional judges reflects this desire of an administrative state to recognize immediately this totality of humanity expressed in rights.[13]

---

[12] For a classical exposition of this conflict between the ancients and the moderns see the works of L. Strauss, for instance *Natural Rights and History*, Chicago 1950.

[13] P. Manent, *The City of Man*, Princeton 1998, esp. p. 156–182; L. M. Friedman, *A Republic of Choice*, Cambridge Mass. 1996.

Roughly speaking, the first wave of modern political thinking began with Niccolo Machiavelli and Thomas Hobbes. For them politics and ruling per se was to become a purely practical and all-encompassing activity, everything that was there for humans to contemplate and do something with. The role of the mind was from now on to govern, that is to devise the best techniques to organize reality and the people without the bother of contemplation. For this reason the modern state discourages, in fact punishes, an examination of the deep, "hard" truths of human existence as either dangerous to this order, or superstitious, only tolerated, provided they are kept private, or as a kind of individual spiritual psychotherapy for an individual benefit, having benevolent social and political consequences.[14] The moderns deprived the public sphere of the publicness of the mind exercising judgment, the universal moral judgment, ontologically valid, collectively as well as individually, and thus they deprived human action of any chance of discovering objective morality, that is virtues worth pursuing for the very sake of them, not as a result solely of the utilitarian calculus of practising them so as to upkeep the social and political order.[15]

The moderns thus delegitimized all categories, and in fact all things looked through such categories in reality, whether moral, cultural or political. Whatever had essences, properties, and ends which in turn could govern purposes the humans set for themselves, was defined as dangerous.[16] There was a distorting subjectivism in such an epistemology and a corresponding ontology with its anthropological perspective. It was a melancholic departure from discovering reasons why humans should live at all, and why they should form a community of mutual obligations. Modernity, commensurate with the new hegemonic tradition of the West, loosely termed liberalism, started with an individual and an autonomy principle. Human morality began increasingly to be tantamount to totality of human self-definition, demanding to be recognized per se as "good", not subject to any external standard, and then in turn turned to rights. Rights in modernity began to play the same role as the gods of the decadent ancient Rome, a condition where at a certain point there were so many gods that it was impossible to live without offending at least some of them.

Eventually human dignity became commensurate with the totality of humans' self-definition, which resulted, one might add, with a sight of existential despair and reversion to the immediate sensual and utterly practical things.[17] Such

---

[14] It thus rejects the explanation of human reality in terms of Socrates' reasoning in Plato's *The Republic*. Socrates remarks there that he is going to try to explain human beings by looking at political institutions and behaviour, because for him they were a kind of human person writ large. This in turn would enable him to make human behaviour easier to comprehend.

[15] For the systematic differences between the ancient, Christian and modern conceptions of virtue see M. Blitz, *Virtue, Modern and Ancient*, [in:] *Educating the Prince: Essays in Honor of Harvey Mansfield*, ed. M. Blitz, W. Kristol, New York 2000, p. 3–17.

[16] Attempts to overcome this division between the ancients and the moderns, like for instance phenomenology, as well as a good exposition of differences between the schools are explicated in R. Sokołowski, *Phenomenology and the Human Person*, Cambridge 2009.

[17] This autonomy principle was defined in modern liberalism's language as being tantamount to personal dignity, which is essentially an usurpation of a concept. Dignity is equal in such an understanding to a to-

a project was daring but equivocal, because it disregarded the classical and Christian questions about how to explain the conditionality of humanity, and above all its conditionality in history, a question which was a starting point for all transcendence, and in fact a justification of the universal validity based on the precept to follow hierarchy of goods, choosing some and discarding others, in an effort to craft one's character. This philosophical question of how to explain human conditionality in history was yet disregarded in modernity, or it pretended that it was an inconsequential question, even if Immanuel Kant accepted the possibility of the latter's existence to be discerned by reason.[18]

But the practical problem of the common good could not be adequately explained, because no common standards could be sustained. A stress on autonomy with a corresponding ethics derived from history and utility, the basis of desire, has created people who have begun to be utterly incapable of living lives which have any narrative coherence. The character of a moral subject, the content and structure of his desires and dispositions, ceased to stand as a paramount subject of moral philosophy. Moral philosophers from Socrates to even Hume had this issue at the centre of their thinking, which meant that the question of character formation constituted the most important educational postulate, whether at an individual or a communal level. But modernity replaced character formation by the most modern of modern words in all walks of life, choice.[19] Eventually choice was defined as a condition of authenticity of one true "self", in popular parlance self-realization. As such, choice began to replace character formation in public education, the very essence of education since time immemorial. Modernity thus proposed a course of action and its morality, without any definite conception of any end, and the social and political conditions necessary to sustain a life formed by virtues constitutive of that end. It also doubted that there were necessary social conditions sustaining such persons and inculcating them into such ends, even if they existed. With such an approach, it was impossible to provide in modern liberalism any justification of a human good beyond the sheer desire of moral freedom.[20]

Thus the most fundamental question which had to be posed in such a context was who would provide the social cohesion for such a system. How were people to behave to sustain civility in the conditions of modernity's pursuit of individual interest as a legitimate, *sine qua non* condition of a proper regime? Was there going to be a virtue, any virtue which was to animate them, and what was it to be? Were

---

tality of human behaviour or desire, justified by that person alone. See: P. Manent, *A World Beyond Politics?: A Defense of the Nation-State*, Princeton 2006, p. 98–128; and idem, *The City of Man*..., p. 156–206.

[18] See: T. L. Pangle, *The Ennobling of Democracy: The Challenge of the Postmodern Age*, Baltimore 1992, p. 13. Of course Kant accepted boundaries of reason, the latter being incapable of explaining the totality of human existence. There were "things"[noumenon] which we do not know, we know only about our relations with them [phenomenon]. For the empiricist these two spheres were the same, for Kant of course separate. Thus his project to create rational morality was limited, but it failed anyway.

[19] S. Hauerwas, *The Virtues of Alasdair McIntyre*, "First Things", October 2007, p. 36–37.

[20] A. McIntyre, *Dziedzictwo cnoty. Studium z teorii moralności*, Warszawa 1996, p. 3–21.

there to be any universal manners and institutions creating them, which would secure a practice of virtue? What would be the source of the new virtue, if possible to imagine at all, and who would inculcate it, if ever? Machiavelli and Hobbes, who began the first wave of modernity, whatever their differences, were unequivocal. The state would. The state would be the source of order and rights, a necessary condition of any civility which in the state of nature did not exist. In other words, there was no universal morality, innate and possible to be known before a civil society and a state were created. As such an individual could not be a source of morality, universal and binding, the ultimate guide to virtue. The individual was an animal full of passion and instincts driven by his immediate interests, of which material ones were the most obvious. If so, there could be no need to try to derive a universal ethics from outside the civil society and the state, and look into other sources of providing conditions to secure it.

A condition of modernity is thus a condition of fear, of a possible war of all against all as Hobbes said, or of uneasiness, as Locke stated in a milder form.[21] Modernity could not yet, of course, dispense with a certain moral framework within which it wanted to create a stable political order, such a framework which could even be called modern virtues. But in modernity virtue could never be so much an outward aim and connected with institutions geared to produce virtuous aims. It was inconceivable that a definite constitutional construction was to have as its aim creation of virtues. But modernity did not nullify the indirect problem of a corrupting or non-corrupting political order. There was in this context a corresponding problem of this debilitating ontological and anthropological basis of modern morality, and as a consequence of traditional virtue. The argument for morality was essentially circular in character. Morality was sliding towards an individual desire rationally justified. This desire was, in turn, a classical idem per idem operation, defined as morality. The challenge was noticed, more or less consciously, by all modern thinkers.

The second wave of modernity, which started symbolically with Rousseau, strengthened such a void of modernity's moral theory. Rousseau gave up pretences that satisfying human needs corresponded somehow to moral nature itself, or at least it was not contradictory to it. The best we could claim was that we did not know much about it, except that science was transforming it. Definitely there were no objective moral criteria which could be derived from it, except that the state of nature was innocent.[22] Civilization, Rousseau claimed, had corrupted the moral innocence of nature and had become a prison. Whatever had been, or would be thus done by means of science, education and reason, to "liberate" a human being from the shackles of such a civilization, was to be good by definition. The very idea of progress

[21] See on that uniting element of a state policy as a provider of common morality for instance: L. Strauss, *Natural Right and History*, Chicago 1965, p. 166–201; H. Arkes, *First Principles*, New Jersey 1986, p. 206–232.

[22] Rousseau was already consciously treating nature, culture and civilization as an enemy, and linked humanity with historical development. Kant and Hegel developed this current further, and Nietzsche and Heidegger completed its logic.

in history was inherent in such thinking. This idea of civilization as progress, as a process of constant liberation, was everything we had. Evil was not a moral failing, it was society's fault. Reason was the only possible guide here for us. But moral rules of universal norms and virtues inculcated on such a basis could not be derived from outside, from a moral vantage point. This was because we as humans were now, claimed Rousseau, in charge of creating a better, progressive civilization solely by our image and our will, with morality as a form of autocreation, a shifting sand of human consciousness.[23]

The idea that it is humanity which is responsible for evil absolves men of any moral effort, of any conviction that one's own virtue might be corrupted by one's own responsibility. Finding society guilty meant both that the whole society was responsible for the world's evil and that the innocence of a moral man was a possibility. It automatically unleashed a monistic, centralized impulse to recreate society anew. Institutions of inequality, all institutions, including eventually the structures of thought itself, that is a possible and unavoidable false consciousness in need of liberation to find a true one, were especially responsible for evil. The true self and desire were thus innocent.[24] There was in such a perspective a total perception of society and culture as a false, inauthentic world, an alienation from a true self, which was naturally good, free, and living in a state of unmediated unity, a true reconciliation with oneself and nature. This reconciliation with nature, this final overcoming of alienation and self-hatred required in turn a liquidation of this unbearable state of division within oneself. In such a case, the social contract which Rousseau proposed was a means of remaking the society as an expression of free choice. Such a contract was to overcome alienation, had a redemptive potential and eventually created a new "civil religion", a term Rousseau coined.

If we believe at the same time in the natural innocence of the liberated self, that all social arrangements look to us oppressive, the task for politics is to rectify this intolerable state of the human condition. This constitutes the most potent instance of individual empowerment, an individual will to power. The very idea of evil as an inherent feature of human condition is eliminated. In such a perspective conflict is considered to be inconceivable as a permanent feature of life and politics, it is merely an instance of error, or a delayed execution of the right polity to liberate that area of life from some hidden oppression. A rational plan for human happiness is thus considered not only possible, but necessary. Politics becomes in such a case a tool of social engineering. With that liberty is also gone. Human will

---

[23] J. Starobinski, *Jean-Jacques Rousseau: przejrzystość i przeszkoda*, Warszawa 2000, esp. p. 47–82; see also the excellent foreword by J. Bethke Elshtain to P. Manent, *The City of God...*, p. VII–XI.

[24] *Ibidem*, p. 36–38. This is not necessarily an original idea. It was indicated by Niccolo Machiavelli for whom man was almost indefinitely malleable. Machiavelli does not explain the bad conduct of men by their bad nature: men are malleable than either good or bad. What one needs is not so much formation of character and moral appeal, as the right kind of institutions. We can elicit a proper behaviour by the properly organized institutions, the heart of modern social engineering. See: L. Strauss, *What is Political Philosophy? And Other Studies*, Chicago 1959, p. 42–43; also his, *Thoughts on Machiavelli*, Chicago 1958, p. 279.

and liberty as such become dependent variables. Their legitimacy can be judged only in the light of a definite *telos*, that is their utility of achieving greater equality, until the final innocence of the state of nature be reached. Who was then going to decide that crucial question of how such politics should be conducted? The only ones were *les philosophes*, men of letters, intellectuals.[25]

Such a frame of mind was subversive of any hierarchy, and for this reason equality was a driving force for it. Hierarchy and authority and an absence of equality was the ultimate source of social and individual evil. Virtue was equated not with an individual character, but with an expression of political readiness to support these people, who were professing love of humanity, and knew a way of achieving it.[26] The issue of virtue as an individual moral endeavour thus becomes irrelevant. Only the virtues necessary for a speeding up of "liberation" towards innocence were good, the discrimination being done by the "chosen" in charge of the process of "liberation" itself, defining for the entire society the good moral causes of a particular day and time.[27] But once morality rooted in ontology beyond human autocreation, and the virtues stemming from it, or from human experience accumulated in culture, were considered inscrutable at most, or rejected as an illusion of a spectator's self-consciousness, the moral problem became a vexing issue.

Rights and Social Coherence

Once human nature as an objective reality was gone, once God and morality as an ontological basis was gone, humans were left, as was stated earlier, with the psychology of the self and its moral autocreation aided by reason, and, in addition, a scientific mind of discovery of society's laws. Universal psychological motivations, desires and needs were increasingly substituted for an objective moral order, acquired through an inculcation of virtue. There was yet a very tricky question which was to be answered. What self exactly, what kind and shape of psychological wish, motivation, desire or need, were humans supposed to affirm, and what was the end game of this affirmation, if they were in fact playing a game in a mist, in a total vacuum?

If man as man was an independent and arbitrary creator of his laws and morals, while at the same time being increasingly subjected to the iron laws of history, visible in the realm of society, economics or politics, what was to quarantee any coherence, any community among the atomistic, solitary and increasingly solipsist individuals? Modernity came here with one allegedly universal and suffi-

[25] See: L. Greenfeld, *Nationalism: Five Roads to Modernity*, Cambridge Mass. 1992, p. 186–188.

[26] On this tradition of *noblesse oblige* as part of the modern liberal European thinking see A. Bryk, *The United States, the European Union, Eastern Europe: Different Approaches to Modernity*, "Krakowskie Studia Międzynarodowe" 2008, No. 1, p. 109–228.

[27] For a critique of such metaphysical whiggery see: D. B. Hart, *Atheist Delusions: The Christian Revolution and its Fashionable Enemies*, New Haven 2009; also idem, *Origins of the Specious*, "First Things", October 2009, p. 16.

cient solution: that is equal rights. This is a language which began to be used by all political philosophers from at least the seventeenth century. This was a response to a dissolution of a traditional basis of moral mutual obligation and an answer to the question what was to prompt humans to mutually recognize each other as part of a community of a moral, and as a consequence social and political order.

The new, emerging concept of rights had to relate itself to the traditional concept of natural law, from which duties and obligations stemmed. It had to define the basis of obligation anew. Politically, the rights began to be recognized as fundamental, antecedent to any frame of the constitution. But less certain was what was the ultimate justification of such a limitation. In fact, all modern, dominant conceptions of rights had an implicit assumption that rights were decoupled from any moral frame of order imposed from outside human will, despite lip service paid to it by Locke. There was no moral *telos* towards which humans were to strive, except that which was filtered by their individual choice and execution of rights, either to fulfil one's liberty, to seek "liberation" from civilization or, at the most basic level, to secure life by means of property, as a drive to power.

But once humans began to perceive themselves as part of senseless nature without *telos*, and treat themselves as active participants in nature's transformation, with rights allegedly given to them as human beings, the perspective radically changed. Rights became in this case, in fact, a totally arbitrary contention. They became a means of transforming reality, and an application of such rights in the political sphere caused revolutionary consequences. Free will used as a means of realizing one's rights slipped easily to a desire to realize one's wishes defined as rights, making human existence simply a means of self-betterment, in fact autocreation, defined as morality. Such ideas as the common good, justice, and virtue were in this perspective futile crutches. They were impossible to sustain under the pressure of this overwhelming desire of individuals realizing their wishes, and achieving control over nature, through material betterment and the fulfilment of their rights. This became the very essence of a modern civilization.[28]

Once humans abandoned the concept of nature derived from *telos* as an interdependent hierarchical order, they had to cease treating themselves as natural creatures, as part of nature, with social, economic and political positions legitimately distributed. Equality of rights against such an order was a revolutionary idea with a corresponding leading value of inequality as a problem and eventually as a scandal. Humans then had to look and treat nature as an object of action. That transformation was already grasped clearly by Descartes. But if humans wanted nevertheless to define themselves as part of nature, with rights belonging to them and constituting a yardstick of legitimacy of the surrounding world, it was difficult to define themselves as striving for good. Such a moral disposition was exactly against the natural impulses couched in the language of rights. Humans as moral persons, being part of nature, or rather History, were senseless, since not aiming at

[28] P. Manent, *The City of Man*…, p. 124–152.

any *telos*, except a fulfilment of rights. This was this modern world defined by one desire covering despair: to build the City of Man, not shackled by any limitations.[29]

But this escape to History out of despair, and to rights as a means of creating a republic of all humans, turned rights into a sole vehicle of human strivings, of which the pursuit of happiness was to be the most important, whatever its particular shape. This in turn meant that, due to the absence of any authority imposing hierarchy, whether from temporal or from heavenly sources, humans had to turn the rights into a servant of the self of each individual, and this could be done only in History, that is by an immediate comparison with others. Rights thus become a vehicle of achieving equal status in all walks of life by the sheer fact of lack of their ontological status rooted in reality higher than this self-perception of the self. Equality of rights and equality as an object of striving of each individual thus became the essence of modernity as such.[30] This elimination of limits to a human "self" and its autocreation, which reason by itself aids, by rejecting any extrahistorical sources of moral obligations, caused the question of human nature as a moral quality imposing moral rules and moral limitations to stand at the very centre of the political considerations of the 17th and the 18th centuries.

Once theology was gone from nature, the spectre of nihilism was real. With nihilism, the ideas of rights, equality, justice, citizenship became prey to the strongest, mainly the strongest in the market or cultural sphere. Thus, this logic of modernity put forth incessantly the greatest question of all moral and political discussions, namely, what was the ultimate basis of obligation. Whence the Duty?, Whence the Obligation?, Whence the Virtue? The spectre of nihilism was hanging over the modern world as a cloud never to be dispersed. If there were no objective criteria, no universal, immutable good, the highest beauty and virtue, no ultimate *summum bonum*, if there were only the shifting sands of moral autocreation, which ever expanding rights made possible, truth became simply an arbitrary construct, a mere convention.[31] Man lacks in such a case a horizon of striving, a moral compass to do good and to resist evil, to be heroic, proud, noble and virtuous. He has no compelling criteria of differentiation at all. He does not know why he is doing this or that, except by the sheer logic of his own pleasure and power, which reason very easily can justify, defining its activity as an objective fulfilment of one's rights.

Such an annihilation of truth beyond virtue, and ultimately beyond good or evil, means that power is all in life worth striving for, since power is the only means which can bring pleasure and contentment justified in the language of rights. But if that is a consequence of modern morality of rights, this ultimately means that the weak stand no chance against the strong, and no amount of rights would secure the weak against the strong. Common humanity and solidarity can be created only by

---

[29] *Ibidem*, p. 201–206.

[30] *Ibidem*, p. 52.

[31] L. Kołakowski, *Odwet sacrum w kulturze świeckiej*, [in:] *Czy diabeł może być zbawiony*, Kraków 2001, p. 245.

an objective moral universe, rooted in the natural order of things. Otherwise desire is all to life, and no catalogue of rights can prevent that. As Locke observed, "desire is moved by evil to fly it".[32] As a consequence rights, natural rights, and the later equivalent human rights have, in fact, lost their normative status. A human right has become tantamount to a fact of life itself and its unlimited diversity recognized as good. This means, in turn, that whatever there is to the life of an individual has to be recognized as good and a potential human right. St. Augustin's "love and do whatever you want" turned into do whatever you want and define it as love and then a right. Psychology took over morality, psychotherapy took the place of guilt.

Since there is no objective moral universe binding us all, and towards which we strive, morality is simply an actuality, a morality of subjective behaviour, that is identity. For this very reason it has to be unconditionally accepted, especially against the other. There is simple no basis for a duty within such a perspective, because the universal horizon of common humanity understood as striving towards objective moral order has been denied. This horizon of common humanity and virtue in such a case means simply rights. The culture of rights of the Enlightenment was thus created at the automatic expense of duties.[33] But if man had no longer ends but rights, no longer virtues but wishes, we were in big trouble – as Kant realized in an instant – trying to save an objective world of moral law.[34]

But to form the ontology of Being out of pure speculation, when every other, possible ontology was left behind, was a problem which could be best captured by baron Munchausen's metaphor. In fact, Kant gave up ontology, trying to ground reason purely in sheer ethics, turning from theoretical to practical reason. Metaphysics, having been defeated in the realm of theory, reemerged at the level of sheer life, where a priority of ethics was grounded in the "call" of the "other". This happened exactly at the time where history became the only stage on which human beings could pursue their own, individual pursuits of happiness. Metaphysics was supplanted by history and ethics revolving about rights.[35]

Once the essence of man was declared to be inscrutable, and his Being decoupled from ontology and reduced to self-explicable anthropology or ethics defined by rights, the definition of man became tautological. The question "what was man?" was answered as such: whatever man was, man was man. This was a Machiavellian political answer applied to an anthropological definition. The very Being of man is his actuality, pure anthropology was thus here the starting point. The essence of man was contained in his actual existence. If he was what he was, he was sovereign in guarding his actuality against any pretensions of others to change him. This trans-

[32] Essay II, sec. 55, 61, 71, chapter 20, sec. 6.

[33] R. Scruton, *Enlightenment, Citizenship, and Loyalty*, [in:] idem, *The West and the Rest*, Wilmington 2002, p. 68; M. A. Glendon, *Rights Talk: The Impoverishment of Political Discourse*, New York 1991.

[34] L. Kołakowski, *Kant i zagrożenie cywilizacji*, [in:] *Czy diabeł może być zbawiony...*

[35] This turning of metaphysics into a primacy of ethics with a corresponding theory of rights was described by D. Walsh, *The Modern Philosophical Revolution: The Luminosity of Existence*, Cambridge 2009.

lated itself into rights as the only language of communications between people, and these rights in turn were defined automatically as human rights. Man thus has the rights of man, which have nothing to do with the fulfilment of his potential, but everything to do with guarding his autonomous world of self definition, of defining his existence through auto-creation, the very essence of the modern definition of human dignity. Such rights turned into entitlements, are gradually defined as human rights, that is as non-negotiable entities, making them allegedly ontologically grounded.[36]

Rights became the modern definition of liberty, the equivalent of Rousseau's "General Will" imposed on the entire society. This was an aggressive concept attacking any pretence that man could get any command from outside, a massive delegitimization of any idea, any teaching, any experience imposing limits on ourselves, except rights given as our sole identity. But that meant also that any autonomous institution, any private association, which wanted to make such an external norm the operating principle of its teaching – and a programme of inculcating it to its members was suspect by definition from the beginning, since a "religion" of rights grounded in autonomous moral choice of the "self" – had no bounds and tolerated no other gods. This is really a tyrannical idea, the practical application of the Rousseanian "General Will", a monistic attitude to human existence. A situation in which the language of human rights becomes an ideological language, the language of a particular truncated ontology and anthropology in one package. Thus inherently political Man has become simply the Being that defines himself by the fact of having rights. A legitimacy of such rights is here clearly tautological, since they amounts simply to a statement, that they are "human rights", thus they are beyond discussion.

American Modernity – Freedom and Virtue in a Republic

Americans were the children of modernity as well as a midwife of its particular version. They had to face its challenge, as particular people of a particular time and place. Because of these unique historical conditions and political experiments eventually stemming from them, American political philosophy and historiography as well as public life have been from the beginning perennially obsessed with a fundamental problem and fear of modernity, captured by the following question: What is and should be this relationship between freedom and virtue? Does a modern republican society have any particular moral end to pursue to survive, or is it simply an area of individual interests being played within the confines of a commercial republic, a sufficient condition of such a survival in the long run? This was one of the major points of debate between the proponents of the Constitution, the Federalists, and their opponents, the Anti-Federalists, the latter obsessed especially with the issue of virtue and its corruption.[37]

---

[36] P. Manent, *The City of Man*…, p. 139–140.

[37] See on this for instance: H. J. Storing, *What the Anti-Federalists were For: The Political Thought of the Opponents of the Constitution*, Chicago 1981.

But the Anti-Federalists were no less modern than the Federalists, and just tried to contain modernity's power drive by virtues which they thought could be sustained only in a small republic. The Federalists looked mainly into institutions, but the problem of the character of republican citizens in the conditions of commercial modernity was equally important for them.[38] The problem of the American founding boils down to the following question: was the American political project a purely individualistic, freedom-oriented one, increasingly understood as being rights-oriented, or did it assume ethics of virtue, necessary to sustain an "ordered liberty"? If the latter was the case, an additional question was whether this virtue could be sustained in a robust civil society offering the republic pluralistic virtue-formed individuals, or whether this virtue could only be provided by some form of consciously republican education, inculcating virtues considered important for the maintenance of a republican commercial society.[39]

If, again, the liberal, rights-obsessed project was taken up more or less intentionally, then was this project assuming that politics and constitutional solutions in such a system would accept this dissolution of a virtuous culture in a civil society as a natural price of modernity, the way the European Enlightenment in the wake of the French Revolution did, or just as an unintended consequence in need of mending? If the latter was the case, then the republic had to face the serious problem of how to preserve the autonomy of its culture as a way of both liberty and as a site of virtues, which could somehow civilize modern consciousness. But if a traditional virtuous culture was to dissolve, then was it necessary to provide a new virtue -infused ethic of communal behaviour?

The problem can be defined still differently – namely, whether the American constitutional system was construed to draw simple lessons from such a condition of modernity and its assumptions taken for granted, and acquiesce to a slide towards anomie of virtue in general, or whether it tried, more or less consciously, to

---

[38] The most recent exposition of this problem is: C. A. Sheehan, *James Madison and the Spirit of Republican Self-Government*, Cambridge 2009.

[39] Controversies concerning the aforementioned problem were especially visible in the arguments between two recent American historiography schools, roughly named "republican" and "liberal", which related this issue to concrete constitutional solutions taken up in 1776 and 1787. A discussion about these traditions began in earnest in the late 1960s, and a symbolic work which ignited a heated argument was the seminal book by G. Wood, *The Creation of the American Republic 1776–1787*, Chapel Hill 1969. The argument can be summarized as follows: was the American founding a republican endeavour, obsessed with virtue and corruption, focused on public participation in freedom and democratic spirit for the glory of the commonwealth, as allegedly projected by the Declaration of Independence of 1776, and as practised by the Americans until the enactment of the Constitution of 1787, which unfortunately turned America into a purely modern, liberal, rights obsessed project? Or was the latter course consciously implicit in American political and constitutional ideas from the very beginning, with a corollary consequence of accepting a slow dissolution of both traditional virtues generated in a civil society, and revolutionary republican virtues which were just a transient phenomenon? See e.g.: J. G. A. Pocock, *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition*, Princeton 1975, esp. p. 389–391; J. Appleby, *Capitalism and a New Social Order: The Republican Vision of the 1790s*, New York 1984; B. Bailyn, *The Ideological Origins of the American Revolution*, Cambridge Ma. 1967; T. L. Pangle, *The Spirit of Modern Republicanism: The Moral Vision of the American Founders and the Philosophy of John Locke*, Chicago 1988.

modify the inevitability of modernity's assumptions and its commercial civilisation. The first dilemma concerns, roughly speaking, the issue of whether the Founders, especially the Federalists, justified the proposed constitutional system in essentially Lockean terms. This in a situation when they were shy to admit, that there was no chance for objective morality and virtue in such a society to guide it in all its diversity, thus admitting a commercial acquisitive spirit as a given, to be just tamed by the American constitutional system and paying lip service to virtue. But if not, and the second dilemma was on the Founders' mind, then the American experiment in constitutional government, construed within the framework of the unique conditions of its civil society, was intended to provide a fascinating response to the problem of virtue in an essentially modern civilization. This challenge was fascinating, since America was in many respects the first quintessentially modern, mass society in history.

Americans, unlike the French revolutionaries, did not rebel against their culture, society, legal or economic system. They just rebelled politically against Britain. But their society, considered to be good, was, in many respects challenged by conditions of commercial modernity and the pretensions of the Enlightenment pretensions. Thus the problem of a proper constitutional system which would preserve virtues of such a society, and would periodically regenerate them, was not purely a theoretical issue. How are we then to look at the American constitutional system? Was it created on the basis of a definite recognition of the modern state of consciousness, and if so, was it prone to despair over the possible conditions of civilizing individual passions outside the direct influence of the state? Or was it optimistic about that? If the former was the case, and Hobbes's solution was the only way of building a civilization, then freedom would be a dependent value, kind of a licence from a state, not an innate condition, depending on a particular pursuit of individual interest within the confines of a universal recognition of moral limits, of self-discipline as a moral precondition of morality and human solidarity.

Was the American constitutional system created to provide us with a possibility of transcending this modern predicament in which freedom would have to amount eventually to moral autocreation and a pursuit of individual desires, the instincts which the modern state was simply to recognize, and provide with an administrative system of security? This fundamental question – whether America has a moral character or it is merely the locus for the play of freedom understood as self-interest – stood at the centre of the American predicament from the beginning. This question could be rephrased again: does the American constitutional system require citizens who cultivate certain qualities of character or virtues, or is it neutral towards any type of citizenry, even the kind which rely exclusively on their autonomous self as a source of morality, defined and justified by reason as a sheer desire of the moment?

We may risk the contention that America was after all a different, unique case in the history of modernity. Americans started their revolution ostensibly on behalf of all mankind, but unlike the French Revolution it was a moderate, conservative

one. Americans already had a good, acceptable society, which they only wanted to secure against the illegitimate intrusions of British imperial government. The French Revolution had as its aim the total destruction of the old world and a desire to create a new one. Americans built their society organically in time, albeit a different time from the European one. The autonomy of their lives and institutions they created was not a result of having to face an intractable, established society and a state, present from time immemorial in Europe. Their idea of freedom was intimately connected with the idea of autonomy of human beings, responsible for their own lives and with an ability to shape and control it. But this process was not done in a moral void. America was definitely a Christian society, even if the Christianity at hand was slowly being transformed into a kind of an allay of an individual pursuit, not a judge of it.

Americans created the first modern form of Christianity, which was in essence an evangelical one. It was an evangelicalism as a creative religious response to the dislocation of modernity. In America evangelicalism, present in Europe but not on a massive scale, inaugurated new impulses oriented radically towards the Bible and individual conscience, with a ubiquitous independence of living and literacy, conditions strengthening automatically a sense of empowerment towards reality around, and a sense of autonomy with an absence of the European fatalism of the lower classes.[40] The modern cracks in the social and cultural world of Christendom, which Americans experienced by their separations from the seats of established religion of London or Rome on the one hand, and feudalism and absolutism of the political and the social order of Europe on the other, immediately created a modern form of consciousness for the entire people. They had to face this new situation in conditions of new challenges, convictions of their uniqueness, through the lenses of a theology which was millenarian, and at the same time very democratic in comparison to Europe, also in a religious sense.

American evangelicalism was oriented more towards the Bible and individual conscience, rejecting tradition, and for all these reasons more pragmatic than dogmatic, more entrepreneurial and self-motivating than tied to inherited patterns of operations. But first of all, it was a form of Christianity which, thriving without the support of the state and widely pluralistic, had to elicit from the faithful not only greater activism, emphasizing action over sheer speculation, with the absence of a sharp line between the clergy and the sheep led by them, but a greater self-consciousness and personal responsibility for one's own life. With that came flexibility, which this New World, modern and American, demanded, with a plethora of dynamic organizations fitted to the new conditions.[41] Americans after the revolution thus formed their constitutional system with a strong cultural understanding of liberty as morally

[40] For an excellent analysis see: M. Noll, *The Rise of Evangelicalism: The Age of Edwards, Whitefield and the Wesleys*, Downers Grove IL 2010; also: G. Himmelfarb, *The Roads to Modernity: The British, French and American Enlightenments*, New York 2005, p. 121–130, 233–234.

[41] M. Noll, *The New Shape of World: How American Experience Reflects Global Faith*, Downers Grove IL 2009.

"ordered liberty", in fact, religiously "ordered liberty", but ordered outside of a state. The anti-establishment and the religious freedom clauses of the First Amendment were to separate religion from the federal state so as, first of all, to separate this state from religion.

It was a consequence of the rich religious situation itself, the very essence of American life. The principal source of the American concept of separation of church and state was never an enlightened rationalism of a type which reformulated a relationship between church, or churches and the state in the wake of the French Revolution in Europe. It was a clear recognition by various already competing religious groups since the colonial times, that it was better to neutralize the federal state in matters of religion than run the risk of one of their opponents gaining control of government, or government becoming a new religion. Culture and society, civil society at large, was a province of legitimate and robust religious life. For the European Enlightenment elites' rational mind, religion, mainly the dominant culturally and thus anthropologically Christianity, was a pernicious superstition, and thus was to be deprived of legitimate status in the public discourse. Reasoned public discourse was thus defined outside a religious language, anthropology and theology as such, the latter in such a perspective having nothing to add to a civilized, moral discourse.

In America the situation was different. Religion was to be a legitimate voice in the public discourse. Without a monopolist. Diversity of faiths allowed all discourses to be engaged in the public sphere. This discourse had thus to draw on rationality aided by religious resources. The rightly ordered and robust civil society, sustaining rights properly conceived of, seems to be here a precondition of a free society. Religion operating in the civil society, that is in the public square independent of the state and influencing it in turn, calls citizens out of themselves. That is, it calls people as persons to get out of their isolationist selves, which ultimately turn to a consummation of rights conceived against others. It calls them to think of common goods and higher goods at the same time, as necessary conditions of the ultimate security of their freedom as persons. There is here a definite distinction between *sacrum* and *profanum* as a precondition of a legitimate state structure and public life analyzed well by St. Augustine. An underlying notion of such an approach the very source of the Western tradition of freedom was never in doubt in America.[42] The American experiment, defined in the Declaration of Independence, was this Christian achievement's most modern exposition.

Modern liberty, in such a perspective, was thus impossible to be conceived of outside of Christian imaginary, giving the latter a fundamental justification and security within a definite, legitimate conception of the state. The American modern experiment in liberty was thus dependent on prepolitical, cultural, anthropological and thus moral presuppositions, without which such a modern experiment could slide into despotism again, this time of a secular, rationalist state. Freedom of re-

[42] See: St. Augustine, *The City of God*..., especially Book XIX and his view of the Roman Empire.

ligion, meaning the full operation of religion in public life, was not only in accord with modern conditions of life, but was for this reason also necessary to sustain a political order as such, with constitutionalism, the rule of law, civil liberties, the market economy, limited government, personal responsibility, and finally civic order and virtue. Part of the reason for that type of thinking was the fact that the Founders understood by instinct that what they wanted to create in institutional terms did not contain any moral justification per se. In other words, that the new American political system, a liberal one, even in its best shape, was not self-contained. It was not an expression of human nature, as radical liberals once argued.[43]

Liberalism, first tried fully in America, was a fragile construction, erected by means of a massive cultural undertaking to channel the lesser motives of human disposition of nature towards decent ends. Liberalism thus feeds on roots and rests upon foundations which by nature are illiberal, depending on many extrapolitical sources like family, and in general Western cultural traditions, among them the Judeo-Christian moral order.[44] Edmund Burke pointed out this inherent conflict within the liberal tradition between the party of conservation and the party of Jacobinism in his "Letters on a Regicide". The argument between them was whether liberalism was a way of life or a means to rational politics, whether this was an end or a beginning for political thought, whether it was defined by pure principles or by practice, capable of containing pluralism, diversity and not an orderly way of life.[45] Liberalism of the first order wanted to secure a liberal society as an outgrowth of countless generations of gradual social and political evolution and cultural wisdom. Liberalism of the second order, of which the so-called progressive liberalism since the turn of the 20th century has been an heir, rooted itself in a form of Heglism, and has used liberal principles to enact a complete break with the past, so as to achieve politics of rational control.[46] There were thus particular prerequisites of liberalism which could not be totally discarded if freedom was to be retained.

The American liberalism of the Founders was definitely not the liberalism of the "first principles" order. They treated liberal institutions as something more than just scaffolding for the free people. Americans possessed a character, a culture, as well as a particular doctrine, proclaiming in the Declaration of Independence

[43] And even here the situation with the 18th c. liberals and radicals was not unequivocal. For instance it is clear by now that the icon of radical liberalism Thomas Paine relied very much on religious ideas. Religion and God was crucial to the development and expression of his political ideas. See on that: J. Fruchtman Jr., *The Political Philosophy of Thomas Paine*, Baltimore 2009.

[44] One may argue that such liberalism is a modern version of the medieval separation of political and spiritual authority, the authorities which were to be distinct, a modern rendition of Pope Gregory's VII studied rebuff of royal power in ecclesiastical affairs, the very defining characteristic of Western civilisation and its idea of freedom. See on that: H. J. Berman, *Law and Revolution: The Formation of the Western Legal Tradition*, Cambridge Mass. 1983; T. Holland, *The Forging of Christendom: The End of Days and the Epic Rise of the West*, New York 2009.

[45] E. Burke, *Letters on a Regicide Peace*, [in:] *The Portable Edmund Burke*, ed. I. Kramnick, New York 1999, p. 517–532, esp. 520–521, 524–525.

[46] K. Minogue, *Polityka*, Warszawa 1997, p. 120–121; also idem, *The Liberal Mind*, Indianapolis 1963, esp. p. 54–60.

that "all men are created equal", with the United States as a republican example to a mankind. The federal Constitution was construed for a particular people, as the Preamble proclaimed, to "secure the Blessings of Liberty to ourselves and our Posterity". In other words, the Americans, guided by universal principles, moulded a people with an already existing particular history and culture, character and destiny. Thus, the American founding was not constituted ab ovo; it was within a context of a distinctive cultural framework, nowhere better captured than by Edmund Burke's parliamentary speech on the colonies in 1775. The universal principles were not all there was to the American founding; the cultural particulars in the widest possible sense were also a basis of it. American liberalism was a combination of John Locke's social contract mediated by Americans' traditions and culture, including Christianity. Their liberty was definitely about self-government, but self-government was much more than just a limitation of the powers of government. In this sense, America had in 1776, as it has now, a definite past and culture within which the universal principles have played themselves.[47]

Religion – that is biblical religion – seemed in the perspective of the American Founding to be indispensable in forming and sustaining virtues that may be the only ones which can ultimately sustain liberty itself. For this reason, the American experiment, because of its unique conditions, was much more than an enterprise to construct a polity based purely on a contract tradition. The contract tradition was also intimately tied to a covenantal tradition rooted in the biblical grounding of truth about the human condition in liberty, of which America was maybe the first and most interesting, but nevertheless only one of the possible instances. This was the essence of Abraham Lincoln's condemnation of slavery in distinctively covenantal language of America as being an "almost chosen people". This did not mean an idolatrous statement that America was or is a "chosen nation". It only meant that it sustained conditions in which liberties of the morally equal people could best be secured in a particular time and for particular historical reasons.[48]

But America's liberty was at the same time a modern one, with an individual at the very centre of it, and corresponding virtues being legitimized by their individual, not collectively imposed, acceptance, a recognition of the limits which were to come from the consciousness of a profoundly civilizing religious context, as well as political and institutional practices teaching responsibility. The American consti-

[47] E. Burke, *Letters on a Regicide Peace*..., p. 524–527.

[48] It was this civilization which, at the time of Lincoln, was in danger of destruction because of the Civil War. The war which threatened a chance of creating an example to the world of how free people could organize themselves, the very meaning of Lincoln's other words about destroying the "best hope of mankind". For Lincoln, America was not a Hegelian nation being the very embodiment of history's Progress, but it was definitely a covenantal nation trying to create a space of civilized life in the fallen conditions of history, which has no direction stemming out of its iron laws, definitely not a direction imposed by a state. But America was a civilization which provided a chance to make human life bearable, and in tune with the longings of people as free and dignified persons by nature. For Lincoln there was no doubt that the biblical imaginary was in accord with the American imaginary. America was not a Christian nation, but America needed Christianity to make all free and dignified.

tutional system was thus facing a dilemma: how to provide virtues in the conditions of modernity outside of a state as a source of them. This was a question of how to preserve the integrity of an individual with freedom which the state had simply to recognize, and how, at the same time, to organize this freedom in a way which would not be corrupting to the virtues necessary for a civilized life of politically "ordered liberty". In the conditions of modernity, it was impossible to provide a system which would be a perfect substitute for the ancient or traditional Christian virtues and civilizations which sustained them. But it was possible, so the Americans thought, to create a system leaving opportunity for virtue open, trusting the wisdom of the American people.[49] This opportunity excluded Rousseau's idea of forcing virtue on men by a state, and creating the new man. The American Enlightenment also rejected from the very beginning the cultural paradigm of the 18th-century European understanding of modernity, with reason as a sovereign agent of change used against religion. It did not pit religion against reason. Americans refused to accept the idea, so prevalent among the French Enlightenment philosophes, that a social order based on religiously grounded norms would be totally taken over by an order constituted and based on reason. They knew by instinct and practice that reason was not contradicting religion, a.k.a. biblical religion, that practical reason had in fact religiously grounded roots.[50]

This was a real conflict of visions between the two versions of the Enlightenment, with practical consequences. If modernity was to be tantamount to rationality rejecting religious groundings of norms, then a road would be open to an understanding of modernity, as a gradual objectification of universally accepted rationality fighting all other instances of reality, including religion, or culture as such. Modernity would amount in such a case to a colossal project of social engineering against reality itself, including the indelible religious sensibility, and thus against human freedom as such, with a temptation to use the machinery of politics to speed up the advent of perfect modernity and to accomplish the end of history.[51] This would eventually place the movement of human development in the hands of central government and the engineers of the mind, making human freedom just an aspiration, a condition to be constantly strived for, never achieved except at the end of history, the first such an instance of a thought about overcoming human alienation by political means.

Human freedom was not to be recognized as the province of a person endowed with it irrespective of its actual realization; it was a potential to be developed, always in the future, and controlled by the elites. Such a philosophy was fairly easy to be construed in France, since a project of the *philosophes* was consciously accepting a point of revolutionary emptiness, "point zero" of history, a total new

---

[49] H. Mansfield Jr., *Political Philosophy*, Wilmington 2001, p. 42.

[50] G. Himmelfarb, *The Roads to Modernity*..., p. 189–226.

[51] This was an implication of Edmund Burke's critique of liberalism of the "first principles" and the Jacobin politics inherent in it. See idem, *Reflections on the Revolution in France* and *Letters on a Regicide Peace*.

beginning, in which society, was liberated from the past by a Grand Idea. It was this Grand Idea which subverted any institution of a feudal society, and it was thus again this Grand Idea which was to rebuild it. In other words, it was ideology which destroyed the old world and ideology which was to rebuild it.[52]

The very essence of such a discourse was to focus on political power and its aims. A society destroyed by the Grand Idea and an ideological discourse could not rely on anything else but the Grand Idea, and could also be rebuilt only by the Grand Idea. But if everything was subject to change, thus if everything became instantly ideological and political, politics immediately became a war of all against all. It was impossible to contain such an understanding of politics to the elites. This massive grab for power had to affect an individual, who through his consciousness began to think how reality should be organized and has not been. Immediately, politics and the question of power began essentially to revolve around the question "who whom?", since there was no universal point of reference, no truth as such to which this power grab could be related. One could argue that the elites knew where history was going, and they were in a position to impose this point of view on a society at large, a perennial temptation of the modern intellectuals to construe a perfect, totalitarian order. But such an ambition could not be sustained. Sooner or later, everything becomes for everybody a fight for the best position to reshape the world according to one's own image of it. Whoever is the strongest wins.

The normative questions become irrelevant, used solely for the purpose of ex post facto justifying the actions of the cynical, or those who think that they possess the truth where history is going. This was the very essence of ideological thinking. Ideology provided purely rhetorical tools, utilitarian devices, the language of a particular point in time, for the sheer purpose of destroying an enemy and taking power. In other words everything was up for grabs for political negotiations and a power contest. But this was an idea which meant a declaration of war on reality of human freedom as such. Americans instinctively rejected such an ideological frame of mind, because they considered their autonomy and rights to be not a grant from a state, let alone the federal state, but a province lying outside of that state. They did not expect the state to be the mover of their individual existence and social structure which was to give it a concrete institutional shape.[53] For them there was no "point zero" of history.

The American project was thus not ideological, in the sense that it was resistant to making all reality subject to the Grand Idea which was to rebuild society destroyed by another Grand Idea. It understood the role of religion, tradition and existing institutions as sites of guidance for the creation of the constitutional order. Culture was not an enemy, and not an endless subject of experimentation, as in the

[52] This ideologization of French revolutionary rationality was well captured by F. Furet, *Interpreting the French Revolution*, Cambridge 1981.

[53] Thus the American Constitution of 1787 had eight articles, whereas the various French revolutionary constitutions of 1791, 1793 or 1795 had from close to three to four hundred articles.

French revolutionary project. American did not break with the continuity of their institutions. The Constitution was limited in its aims, was an act of establishing a political community on the basis of a sovereign reason, but this reason did not start with the hubris of defining the past as an enemy of the future. Political modernization was geared to the specifics of culture at hand; it did not consider the destruction of this culture the essence of a successful political modernization, an approach to reality which has characterized European secular, liberal elites since the French Revolution. Reason was not a totalitarian tyrant, obliterating the heritage of the past. Americans sensed, on a practical plane, following here more Burke than Paine, that Reason not coupled with cultural wisdom was a servant of the sheer power of the strongest, the servant of their moral autocreation as a justification of their desire for domination.

Thus Americans, in total contradistinction to the French, created a political community with a different aim in mind as to why such a community should exist. The aim of the French community was to be created by an abstract Reason, operated in fact by the few, intellectuals and experts, who imposed the new version of the Grand Idea, and were then to lead the masses. The aim of the American community was to be created by Reason in the aid of tradition of the existing society. Tradition can of course hamper the process of modernization. This development was visible in Europe, even if very much provoked by a rational, ideological rebellion from the top down against it in the European continental Enlightenment, the essence of the postfeudal order in the 19th c. But in America such a dilemma was not present at the beginning, and has not imposed itself on its society till today, despite the strong pockets of ideological thinking in the academy or the media. Tradition in America, including Christianity, mainly Protestant Christianity, evangelical, individualistic and thus modern, was part of a pattern of modernity, not its enemy, at least until the beginning of the 20th century.[54]

The American constitutional system created in 1787 was a result of both conscious, creative statesmanship, an interplay of different currents of thought, as well as political and economic exigencies. Classical republicanism or civic humanist tradition, British liberalism, Protestant Christianity, the Scottish moral and historical tradition, including a general, continental Enlightenment, let alone the English jurisprudential tradition were the most visible ingredients, even if meshed sometimes into a confused web, often used only rhetorically.[55] But the American constitutional system was as well a result of conflicting interests during the Constitutional Convention of 1787. They could often only temporarily, and with political acumen, be brought into peaceful conciliation as for intance the slavery issue.[56]

[54] The first challenge to the Protestant frame of mind came with psychoanalysis as well as with the humanistic, progressive education of Dewey and Mead.

[55] On these different traditions on which the American constitutional system was built see in more detail J. P. Greene, *The Intellectual Heritage of the Constitutional Era: The Delegates Library*, Philadelphia 1986.

[56] It was yet accepted with the name of the institution, out of shame, hidden under the curious phrase of a "peculiar institution", and a fatalistic conviction that due to some institutional changes and economic inefficiency slavery would eventually be phased out in the South.

Nevertheless, the Founders of all stripes had a sense of the uniqueness of their enterprise, in terms not only of political and institutional innovations but also of the moral enterprise which this new constitutional system was to secure and perpetuate. Not only the first words of the Declaration of Independence testified to that, justifying the American revolution in the universal language of humanity coming out of age, and connecting this task with the universal morality of God's natural law applied in history. The authors of the constitution had a sense of the moral gravity of their enterprise, which was to be *novus ordo seculorum* and which could survive only if a particular type of citizens were to carry it on. For these reasons, both the proponents and the opponents of the federal Constitution, which was to "close" the constitutional fluidity of the American Revolution for good, did not disregard the problem of virtue, the moral quality of the character of the Americans in this new commercial civilization. It stood right at the centre of their concerns. They were, as students of the ancients and the republics of the more recent times, fascinated by the problem of virtue and corruption of the regimes. They had an acute sense not only of the uniqueness of their federal republic but also of this republic constituting a fulfilment of political time in the evolution of the regimes. The American federal republic was in their hidden hopes the best system ever to be commensurate with an idea of liberty as a fulfilment of man's capacity to be a moral agent. The system, which was finally to secure for humanity an ability to live according to God's natural law promise, of giving each a recognition of a moral "person" equal to each other, within a concrete political regime. That was the essence of the Declaration of Independence's phrase, that "we hold these truths to be self-evident, that all men are created equal".

The very idea of character, that is of virtue commensurate with the upkeeping of such a system, thus stood right at the centre of Americans' constitutional discussions, with the understanding that this new form of government could enhance or corrupt the habits of the citizenry. For both the Federalists and the Anti-Federalists the constitutional system, if wrongly devised, had to face a question of decay and corruption of character. For the Anti-Federalists the system was dangerous, since it was subverting such a prescribed aim, as too extended. The aim of the new republic was to secure such freedom, where participation in politics was a dependent value, of which the highest aim was to secure the autonomy of civil society, best capable, in its plurality, to form moral citizens, who would then offer this virtuous formation for the common good. The new government, in their judgment, was incapable of sustaining the autonomy of such a civil society.

The Federalists also argued that the educated, virtuous citizenry was necessary for preservation of this new republican government, but that education towards virtue was quite possible in an "extended republic", preserving exactly a wide enough area to thwart and dilute dominating interests, and for this reason to secure the plurality of civil society institutions. But the formation of a genuine community of republican citizens was, for Madison, the condition *sine qua non* of preservation

of virtues, which ultimately were to be grounded in natural rights, not being just the outcome of clashing interests making a compromise.[57] Thus the Founders of all persuasions either took virtues of their society for granted, or relied, more or less unreflexively, on a traditional regeneration of virtues in the civil society, as well as on the proper construction of government which would promote it. In the latter situation it could either be a direct governmental encouragement of virtue, or such a construction of government which would promote "self-interest well understood".

Virtues were indispensable to the survival of a free government. It was obvious also for the Founders that the connection between the republic and virtue stemming from biblical religion was done in conditions when a political application of prudence was paramount, when an aim of politics was not the perfect good, but the greatest good possible. Religion and morality seemed to be necessary for the American type of liberty, not in a sense of the republic supporting directly any type of a morality, let alone the established church, but in another sense of grounding that liberty and the rights stemming from it, in an entity higher than a sheer decision of a democratic moment, even if rationally justified. The liberty which the Americans were thus to cherish depended in such a perspective on an affirmation of a certain ontology and anthropology, which was to be recognized by instinct by all citizens, both religious and non-religious. Only then were the rights and liberties, commensurate with the essential human rights written into the Declaration of Independence of 1776, which the American republic of liberty was to guarantee for all, to be secure.[58]

This perspective had profound consequences on religious liberty, and especially religious liberty concerning biblical religion. The very idea of excluding such a perspective from the public sphere and education in the new republic would amount to a lack of protection of the liberties and rights also of non-religious Americans, not only the religious ones. The Constitution protected the right to keep one's faith – or lack of it – private. But it did not require the privatization of Americans' faith. This would amount to treating religious faith as a province not of serious belief giving some fundamental insight into the human condition, not inimical but complementary to Reason, but a superstition. Religion was part and parcel of the public discourse because it was treated as part and parcel of the human existence of free people, explaining to them the very essence of their participation in the world at large, including an engagement in political affairs. To treat religion as a private affair would mean defining religion in totally new, postmodern terms, with very definite ontological, anthropological and finally social and political assumptions about who a human being is, and grave consequences to the believers in the cultural, social, political, as well as constitutional sphere.[59] It would impose on them

[57] See on that Sheehan, *James Madison and the Spirit of Republican Self-Government*...

[58] D. Novak, *In Defense of Religious Liberty*, Wilmington 2009, p. 86.

[59] This is exactly what is visible in the Supreme Court judgments regarding the interpretation of the religious clauses of the First Amendment. By giving a particular interpretation to them, the Supreme Court is also

a definite ideology, forcing them to treat their faith as an inconsequential pastime of their life, a symbolic, ideological coercion masquerading as reasoned argument. In other words, it would define the lives of the believers as lives incapable of participating in a real world, including a political one.

Such a proposition would require from Americans a disintegration of their lives before engaging in a democratic republican participation in the public square. The federal government had no right to impose religious obligations on its citizens. But it had no right either to instruct them, especially the believers, as to a limited scope of religious concerns. The sharp divide between the Church and the world, the spiritual and the temporal, or religion and politics was inconceivable in eighteenth-century America, not only because the cultural paradigm there was obvious, but also because the Western idea of liberty was stemming from within this paradigm, even if the French Enlightenment in Europe was subverting it directly. It was the abuse of this connection of religious liberty with liberty as such in the absolutist state, not the very essence of the division between *sacrum* and *profanum*, preventing a state from imposing on believers its conception of the existential predicament, which caused the crisis between the Church and the state in Europe. But in America this connection was not subverted; it was exactly reoriented from the beginning in the modern conditions in such a way that it could give birth to the religious clauses of the First Amendment.

The cultural paradigm ensured that, for the reasons of exactly biblical morality being the guarantee of the rights and liberties of the American people, the internal spiritual life of believers and institutions was to be encouraged, in order also to protect the rights of unbelievers. To deprive a religious community of the right to make moral claims was not only antireligious in such a perspective; it was against the very idea of freedom the American system was supposed to guarantee. This was the essence of the eighteenth century's meaning of religious liberty and liberty in particular. Virtues were to be born spontaneously in culture in freedom, they could not be imposed. But for such virtues to be commensurate with freedom, religious liberty, meaning religiously robust moral argument, should be retained and encouraged, since only such an argument could, in the last resort, guarantee that liberty which was the republic's aim. The privatization of religion was for this

---

at the same time, even if silently, imposing a particular ontological and anthropological understanding of what religion is and should be, thus how the people, religious people are allowed to shape their existence, thus how they should exercise their existential freedom. The interpretations of the First Amendment concerning religious clauses are thus judgments about human freedom as such, its limits, its prohibitions, a grant from the state. This is a sheer exercise of ideological power by the state, defining the boundaries of a legitimate activity of religious free citizens in a secular state, the meaning of religion, and by the way the very definite meaning of Reason as such, excluding the religious language as inimical to it, not as a complementary one. This constitutes in other words the most blatant case of totalitarianism in white gloves, where the state, through the Supreme Court's judgments, imposes on its citizens a definite conception, and the only one, of good life, excluding the other ones freely chosen, the life which encompasses not only the social and political conditions of its functioning, but in fact deciding about a legitimate existential interpretation of it. See D. Novak, *In Defense of Religious Liberty...*; R. Royal, *The God That did not Fail*, New York 2006; also: R. P. Kraynak, *Christian Faith and Modern Democracy: God and Politics in the Fallen World*, Indiana 2001.

reason a subversion of the ability of a civil society in public to secure cultural, meta-political conditions, including the ontological and anthropological language, to retain liberty as such, in the most fundamental sense.

Biblical faith was never private in America, but was commensurate with the American tradition of liberty, and Western tradition of liberty, the only liberty securing the inviolability of an individual person's existence and rights *vis à vis* a state, and everybody else. Rooted in the Gospel's injunction to render to Caesar what is his due and to God what is His, developed by St. Augustine by his separation of the *sacrum* and *profanum* doctrine of *The City of God*, as well as Pope Gelasius's theory of "two swords", it got its full political and constitutional implementation in the wake of the papal revolution of Gregory VII in the eleventh century.[60] The potential for abuse of this religious dimension of freedom, giving rise to the Reformation and subsequently to the French Revolution in Europe for historical reasons, was not structural in America, thus not as rigid. It was in fact an immediate one, political and institutional, more or less easy to correct by evolutionary means. But the American dimension of freedom was at the same time decidedly modern, and considering religion definitely a *sine qua non* condition of freedom as such, since without it, that is mainly biblical Christianity and what it conceptually contained as far as relations between a state and a personal right to autonomy from that state, freedom would perish.

In fact, religious faith was the essence of the American understanding of liberty in a larger sense. Faith was from the beginning increasingly individualistic, introspective, pluralistic, never defined by the European intellectual or institutional orthodoxy, but at the same time it was evangelical, not private, if understood as purely personal. Unlike in the European, French Enlightenment tradition, it was in America never considered to be a leap from reason to unreason, from the rational to super-rational, at least until the cultural breakthrough connected with the advent of psychoanalysis and liberal progressivism at the beginning of the twentieth century. But, first of all, faith and religious life was a communal narrative of people seeking freedom in the New World, liberation from slavery of institutions, persecutions, hardships of life, and seeking at the same time a fulfilment of a Covenant, the best ultimate guarantee of liberation in the Promised Land.[61] This communal narrative, of which faith was a crucial ingredient, as for instance Catholicism has been such a narrative in Ireland or in Poland since the 18th c., meant that a citizen accepted such a narrative as one's own, that he included himself within such a narrative as a protecting and explaining cultural code.

---

[60] H. J. Berman, *Law and the Revolution*...; A. Bryk, *The Origins of Constitutional Government*..., p. 64–65.

[61] If one can venture a comparison, the plurality of religious communities and practical freedom of their operation in America constituted an equivalent of the plurality of communities in medieval Europe within which one could seek freedom, always escaping from one jurisdiction to another, with the state not asserting its power over the whole society. For a fascinating account of this see: H. J. Berman, *Law and the Revolution*...

A citizen could be a non-believer, but he was part of that narrative as a narrative of freedom, and he was gaining this freedom by a particular type of ontology and anthropology which underwrote its social and political expression. Therefore, even non-believers in biblical faith were protected as part of that narrative.[62] An exclusion of this biblical faith and its personal, moral claims on human character, that is claims eliciting virtue from a conversation about the common good, liberty and virtue in the eighteenth century, would amount to a total misunderstanding of the meaning of the American experiment in "ordered liberty" of the seventeenth and the eighteenth centuries.[63] That is why the republican virtues were the outcome of a sustenance of the very cultural code of such a morality. The crucial question for the Americans was whether, in the conditions of a commercial modernity, this type of connection could also be sustained, or whether such a connection between virtue stemming from the biblical morality and modernity were on divergent courses, with the latter eventually being triumphant.

Whence Virtue?

It was taken for granted by nearly all at the revolutionary period that virtue as such was not and could not be directly inculcated. Thus, for instance, Madison's "extended republic" was devised to blunt a possible elevation of a particular interest, but therefore of a particular virtue, into the preeminent place in American public policy by means of institutional engineering. The notion that virtue was not, and could not be, directly inculcated, stemmed directly from the modern conception of a republican virtue at a political level. How could such an operation be done, when there seemed to be an inherent tension between virtue and liberty, when

> society dedicated to liberty could [not] make much of virtue [since the one] resolved to have virtue could [not] pride itself on liberty. Yet liberty and virtue also seem necessary to each other. A free people, with greater opportunity to misbehave than a people in shackles, needs the guidance of an inner force to replace the lack of external restraint. And [since] virtue cannot come from within, or truly be virtue, unless it is voluntary and people are free to choose it, whence does it come from? Americans are, and think themselves to be, a free people first of all. Whatever virtue

[62] For this very reason the American narrative of freedom as inseparable from biblical faith did not create any alternative narrative until the turn of the 20th century, when the new psychological and psychotherapeutic movement was putting forth a secular version of the American narrative. This corresponded to a slow change and disintegration within mainline Protestant Christianity, its acceptance of liberal biblical interpretations coming from Europe, and a slide towards a Social Gospel interpretation. From another angle one can discern this attitude of freedom as rights being dependent on the biblical anthropology and ontology in a statement of Jürgen Habermas, the major liberal-left thinker of contemporary Europe, who said in 2002 that all that chatter about human rights without the Christian heritage and underwriting of the distinctive concept of a person was nonsense.

[63] This connection of liberty and biblical morality was especially visible in Williams, *Sermon on the City upon a Hill*, the Declaration of Independence, in nearly all the sermons of the American clergy during the revolutionary period, and was constantly visible in the political, especially presidential, American pronouncements of which Washington's and Lincoln's speeches were the most formative. See: Forrest Church, *The American Creed: A Spiritual and Patriotic Primer*, New York 2002.

they have, and how much of it, is a counterpoint to the theme of liberty. But how do they manage to make virtue and liberty harmonious?[64]

Whatever the means of securing virtue, direct and indirect, the fundamental question of American modernity and the constitutional system, i.e. this tension between freedom and virtue, was the most challenging intellectual problem for American republicans of all stripes.

Freedom understood in a modern sense was essentially unrestrained, a psychological disposition, taking this concept from the realm of politics increasingly into that of the individual choice of the autonomous self, the ultimate logic of a radical democratization of everything in a polity as a precondition of its legitimacy. For Americans such logic was a problem. Whatever the immediate political aims of the American revolution, the Americans were children of modernity against themselves. Their battle cry of liberty during that era was as nebulous as it was real and confused, imbuing them with the potential of limitless opportunities of directing their own lives against any political or conceptual obstacles.[65] It was an impulse, however limited by cultural or moral constraints, subconsciously held, which had within itself also the logic of moral freedom, an obsession with an autonomous will, the very idea of rejecting any subjugation, including a definite shape of biblical morality, from the beginning pushed towards individual interpretation of justifying individual choices. Such logic recognized only a consciously accepted restraint, nevertheless always commensurate with an individual pursuit of happiness. As a consequence, there was a potential that that autonomous will would eventually become the only acceptable way of understanding the meaning of a phrase "the immutable laws of Nature and Nature's God".

There was an inescapable conflict here, with the very idea of virtue at its centre. Virtue was classically, whether in Aristotle, Plato or St. Thomas, and whatever its object, a force of guided restraint. How could we then guide ourselves towards virtue, Americans could ask, when such an effort was in conflict with the preeminent impulse of modernity and its idea of freedom and democratization? That is, such a condition when a sheer will of an autonomous self, and its moral autocreation could make such virtues just lip service paid to a desire justified conveniently by utilitarian reason. What kind of virtues was possible in such conditions? Where in such a situation could we derive virtues from? What should the cultural, political, constitutional conditions be which could enable a creation, inculcation and preservation of virtues, or in fact morality as such? Could it be possible, it was more or less consciously asked during the American founding, to create a constitutional system in which rudimentary virtues could be preserved and the new created among its citizens?

---

[64] H. Mansfield Jr., *Liberty and Virtue at the American Founding...*, p. 1.

[65] See on that: G. S. Wood, *The Radicalism of the American Revolution: How a Revolution Transformed a Monarchical Society into a Democratic One Unlike Any That Had Ever Existed*, New York 1992, p. 11–12, 18, 144–145, 178, 329–334.

It looked as if the Founders were dramatically searching for such a constitutional system which would, by itself, be a source of virtues, in the sense that it would preserve and sustain a society capable of them. A constitutional system in which citizens might be lured into turning around their lives from the debilitating pursuit of their interests and a pursuit of happiness understood as licence, to pursue a rationally justified desire of the autonomous self, onto a path of searching for truth and meaningful life, to wit, virtuous life. But if this was to be done, it could only be done voluntarily, by the people within a constitutional system of the federal republic. The challenge was to construe a system in such a way as to induce people to search for virtues, with the full understanding that a choice, although fully free, may bring happy rewards, or may bring poisoned fruit.

For the American Founders it was a robust, republican, pluralistic and active civil society, creating a fierce sense of independent life from government, as well as from the imposed precepts of behaviour and morality imposed by the "experts", which was to guarantee such an outcome.[66] It was to be a day-to-day education of citizenry in the civil society institutions, independent from government regulations, with the realization that they were engaged in a task of bringing their respective virtues to the *agora*, so the constitutional system, in turn, could perpetuate conditions of sustaining such a moral environment. The *agora* would get from such a civil, robust society citizens trained in virtues which were not utilitarian, which in turn would tame the commercial civilization. Virtues which would be inculcated by a day-to-day operation of churches, families, associations.

In this context, the most dramatic question which divided a discussion between the Federalists and the Anti-Federalists was not whether this modern division between the political and the private, between the federal state and the society should be maintained or not. The dramatic issue was whether the institutional, constitutional means which the Federalists proposed would be able to sustain and constantly regenerate such features of character, the citizens' virtues, which were necessary to perpetuate a free, democratic, republican government. The Federalists answered this question decisively in the positive. The Anti-Federalists battled them, arguing that the means employed were faulty, the proposed constitutional system was defective, containing within itself seeds of despotism, towards which the whole system may degenerate, incapable of sustaining and regenerating virtues necessary for its own maintenance. The feud between the Federalists and the Anti-Federalists was thus the first argument over the proper meaning of the American revolution. It was also an argument about different constitutional responses to dangers of modernity, in which both sides were profoundly immersed.

---

[66] The first fear of such "experts" it seems to me, of the federal state imposing a certain morality on American citizens was dramatically analyzed and predicted by "Brutus", in his criticism of the possible abuse of powers of the Supreme Court within a larger framework of a constitutional system. See H. J. Storing, *The Complete Anti-Federalists*..., Vol. 2, chapter 2.9.

The American constitutional system was thus devised by the Founders as the first exercise in creating an environment to make modern, commercial people ready for an effort to sacrifice, which is the very essence of virtue, any virtue. It was a conscious effort to secure a civilization that would retain a noble impulse, a modicum of heroism, an ability to gaze upward. The capacity of the federal constitutional system to elicit virtue depended both on the overall societal structure and also on some specific institutions, so as to preserve the operation of a robust and free civil society. For instance, James Madison's general "extended republic" concept and the representation principle went here hand in hand. They were examples of how to combine general principles with particular, direct institutional means devised to elicit virtue from the diversity of interests and factions of the commercial republic. Whatever virtues could be created in the robust civil society, and then put forth in service of the republic, there were also constitutional mechanisms and institutions which were to elicit additional virtues from the citizenry of another sort, preventing the system from sliding into a debilitating commercialism and utilitarian ethics. Madison wrote that

> as there is a degree of depravity in mankind which requires a certain degree of circumspection and distrust, so there are other qualities in human nature which justify a certain portion of esteem and confidence. Republican government presupposes the existence of these qualities in a higher degree than any other form. Were the pictures which have been drawn by the political jealousy of some among us faithful likenesses of the human character, the inference would be that there is not sufficient virtue among men for self-government; and thus nothing less than the chains of despotism can restrain them from destroying and devouring one another.[67]

To wit, republican government without virtues could not exist, so it must be presumed that such a form of government called virtues forth, especially among citizens occupying public office, citizens

> whose wisdom may best discern the true interest of their country, and whose patriotism and love of justice will be least likely to sacrifice it to temporary or partial considerations. Under such a regulation it may well happen that the public voice, pronounced by the representatives of the people, will be more consonant to the public good.[68]

Therefore Madison was convicted that the very construction of republican government could also elicit particular virtues. The "enlarged sphere" of the new republic, a menace to most of the Anti-Federalists, was a blessed experiment for the Federalists, since it employed an institution of representation having a double function.

Representatives would carry virtues and wisdom embodied in the civil society in a condensed form, argued Madison, since the former were chosen by the wise and virtuous. Thus

---

[67] *The Federalist Papers*, ed. C. Rossiter, Federalist No. 55, New York 1961, p. 346.

[68] *Ibidem.*

as each representative will be chosen by a greater number of citizens in the large than in a small republic, it will be more difficult for the unworthy candidates to practise with success the vicious arts by which elections are too often carried; and the suffrages of the people being more free, will be more likely to centre on men who possess the most attractive merit and the most diffusive and established characters. I go on this great republican principle that the people will have the virtue and intelligence to select men of virtue and wisdom. Is there no virtue among us? If there be not we are in a wretched situation. No theoretical checks, no form of government, can render us secure. To suppose that any form of government will secure liberty or happiness without any virtue and intelligence in the community, it will be exercised in the selection of these men; so that we do not depend on their virtue, or put confidence in our rulers, but in those who are to choose them.[69]

Thus, the representative principle made a republic in a large area not only possible. It also enhanced virtues of the system at large, by elevating more virtuous leaders. Thus "an extended sphere" was good to a republican government for two reasons. For one, it accommodated and blunted diverse, sometimes extreme interests, making them civilized. Second, in the process of doing so, it was more prone to elicit virtues from representatives. A large territory, with extended economy, religious diversity, different interests, stemming in addition from geography or political cultures of different regions, carried a danger of multiplying interests endlessly. But the political process, because of representation, had to work through coalitions. Politicians representing particular interest groups at the local level, in a district or a state, finding themselves in a large representative body, in the federal republican Congress, would be incapable, argued Madison, of imposing a particular will of any interest group on others, in any other way but by compromise. What Madison was in effect saying was that no ambitious leader could arouse interests and passions in such a way, as to elevate himself into a position of transforming any factional interests into an overbearing, fundamental, dramatically conflicting issue-destroying society.[70] It would have to engage in a process of deliberate public dialogue about the common good, and in fact justice, and thus virtuous society, the very essence of the federal republic clearly stated in the Preamble to the Constitution.

Eventually, American constitutionalism as construed by its main author James Madison had several objectives. It was a government of laws, but it went well beyond that aim. It was definitely a limited government and provided specific instruments of limitations. But the major aim of it was to answer the question of what the ultimate aim of such a government was. In other words, for what purpose ought government to exist, what were its proper ends? There was no doubt to the American founding generation that it was liberty, as specified in the Declaration of Independence, and justice, as mentioned in the Preamble of the Constitution. The Declaration was essentially a document in the spirit of John Locke, radically separating a state and society. The state was to provide just the necessary conditions to secure "life, liberty and estate", that is property the way a human being freely

[69] *Ibidem*, Federalist No. 10, p. 82–83; *The Debates in the Several State Conventions, on the Adoption of the Federal Constitution*, ed. J. Elliot, Philadelphia 1907, Vol. 3, p. 536–537.

[70] *Ibidem*.

chooses according to his image of a pursuit of happiness. "Pursuit of happiness" was essentially a fairly wide concept. Individuals were to pursue their objectives not through politics, but through their private lives. But immediately the question arose of how to prevent this line from being crossed, how to prevent the security of civil society and the rights enjoyed there, from government's encroachments. And, in addition, how to ensure that this civil society's life would not degenerate in such a way that citizens would abuse their rights, oblivious to what kind of government they wanted to be ruled by.

There was no one in the America of the eighteenth century who did not want to create an environment in which, after all, virtue could be preserved. But there were diverse understandings of what constituted virtue and different approaches as to how this could be done. Such understandings were derived from traditional, taken for granted, and practised sources, profusely applied rhetorically. For the Founders, the question of how to relate these old concepts of virtue to the new situation and what kind of virtue to allow stood at the centre of American political thought. The classical element prevailed among the Anti-Federalists, commonwealthmen and the original Whigs. Their plans for institutional arrangements were more directly geared to an inculcation of virtue, both in a civil society and through a construction of republican government. A more modern element was predominant with the Federalists, with Madison's idea of the "extended republic" and a corresponding creation of virtue. All discussions were conducted with one fundamental question in mind: "whence morality?, whence virtue?". One preeminent element of liberal society was dynamism born of free market economic arrangements, as well as individual desire to better one's life and to pursue happiness. From this came the dilemma how to preserve virtue and the social order reproducing it in conditions which allow for change.

Virtue, understood in different ways, stood at the centre of nearly all public discussions in the America of the seventeenth and eighteenth centuries. Roughly speaking, the concept was derived from two different sources. Americans saw no incompatibility between them. The first sense was derived from Christian sources and meant simply following God's law as prescribed in the Bible. This kind of virtue was present in America from the beginning, and was connected with the particular worldly mission of the colonists to fulfil the precepts of God's Covenant. The moral biblical conduct in this new environment, the Earthly Paradise not contaminated by Europe's corruption, was to guarantee that God's promise to create a new society, if the faithful are obedient to His laws, would be kept to.[71] The second sense of virtue was more popular later, when discussion revolved around the qualities of people who could secure the survival of a republican government. Here, a reference to the ancient sources was a logical step. This concept of virtue was taken from the classic, Greek notion of *arête*. It meant those abilities and attitudes of

[71] E. L. Tuvenson, *Redeemer Nation: The Idea of America's Millennial Role*, Chicago–London 1968; S. Bercovitz, *The Puritan Origins of the American Self*, New Haven 1975.

character, not only necessary to do a certain job well, but to do it according to certain moral values defined as good. Such a virtue was the very basis of a true polity, and a guarantee that *hybris* would not creep into its ethos.

This second sense of virtue was connected with the idea that men aim, or should aim, at the good life, which was happiness understood in a classical way when virtue was practised.[72] One practised virtue only in one's relations with those whom one ruled and was ruled in turn, thus

> the Supreme Good was the end of political science, but the principal care of this science is to produce a certain character in the citizens, namely to make them virtuous, and capable of performing noble actions.[73]

Rome added its notion of *virtu*, treating it as a value preeminently geared to the preservation of its republic. Everything citizens did, including religious cults, was to be practised with this view of strengthening the republic, then the empire. But both in Greece and in Rome, political life merged with private life. The two were indistinguishable, since only participation in politics was considered to be the essence of good life.

The Christian idea of virtue, as visible for instance in St. Augustine or St. Thomas, had some general similarities with this classic understanding of virtue. The latter was also to be inculcated to form a proper character of a human person, although the good which was sought by practising virtues was different. There was a clear recognition that this life of virtue should be proper for man, because it was pleasing to God.[74] Moreover, politics in Christianity was never the preeminent activity, let alone the end of life. Participation in it was justified only on condition that it created a frame for a properly formed conscience on a way to personal salvation. If the Roman or the Greek notion of virtue had an inherent totalitarian notion of the only possible political system which was to be supported, inculcating virtue for the sake of politics, this Christian idea of virtue meant the liberation of an individual from politics, and the final subordination of the political to a much higher good, through which the legitimacy of a state could be assessed from the vantage point of the ultimate meaning.[75] There was no definite political regime which could be termed virtuous per se.

The classical, ancient idea of virtue was given a rebirth, though in a different language, in the republican theory of the Renaissance in the thought of such diverse thinkers as Niccolo Machiavelli and James Harrington.[76] It was yet a different virtue, a "civic virtue", a provision of public service in pursuit of honours in a republican

---

[72] Aristotle, *The Nicomachean Ethics*, Cambridge–Harvard 1933, bk5, 33.

[73] *Ibidem*, bk 1.47; 10, 631.

[74] This was the major idea of both St. Augustine and St. Thomas Aquinas.

[75] See: E. Gilson, *Christian Philosophy of Saint Thomas Aquinas*, London 1957, p. 3.

[76] Pocock termed this republican thought "civic humanism".

political community.[77] Such a republican virtue was also dangerous. True, it could be interpreted in a benign way as a mode of acquiring other, lesser ends.[78] But the goal of such a republic was definitely that of "allocating priorities", that is of determining at what times, and what particular goods should be enjoyed, pursued, and to what extent they should be pursued. All that was to be done in the conditions of a liberal society inherently in conflict between particular groups, and thus in conflict as to the ultimate meaning of the universal good. Such a conception of a republic did not yet recognize the interests of particular groups and their qualities as givens, to be accommodated. It looked at a society as inherently divided between the majority of the people incapable of defining virtues in a republic, thus unfit to rule, and the few destined to be the rulers. This did not really mean that the rulers in such a republic would be an oligarchy.[79] Citizens were in charge of politics. But they have to be guarded from the dangers of the unruly mob, so that the polity should have as its overwhelming aim civic virtue, and legislation should be provided to secure it.[80] Liberty was to provide for virtue and guard against corruption. But such a republican liberty, like ancient democracy, was in danger of promoting a definite conception of public good and virtue in its service, in fact of social control. It was inherently in danger of obliterating the modern liberal concept of liberty, pluralistic and anti-absolutist. It was also inimical to the Christian concept of virtue and liberty, which rejected idolatry of any secular entity, and recognized privacy as the realm of shaping the individual's conscience, outside of the state.

Modern republican liberty was definitely democratic in a sense in which a democratic polis or republican Rome were not. Democracy in Athens was ethnic, the Roman republic was aristocratic and oligarchic, but it did not leave the individual and autonomous institutions free to pursue their virtues, with an understanding of putting them forth in the service of the good society. This danger of excessive social control was always lurking at the back of such a republican liberty. The paramount justification of a republic, its vital element, was not so much a civic virtue, but more precisely, like in Athens, public virtue.[81]

---

[77] J. G. A. Pocock, *The Machiavellian Moment*..., p. 67. If we substitute ancient democracy for a republic of modern times then it will be clear that the political community of Athens was itself a good of high order and the public, political life of its citizens was all that was there to pursue. Political life was the essence of life.

[78] Pocock did just that. *Ibidem*, p. 66–67.

[79] The idea inherent, by the way, in Madison's representation concept of the "extended sphere".

[80] In the Virginia ratifying convention Madison stated: "I go on to this great republican principle, that the people will have virtue and intelligence to select men of virtue and wisdom. Is there no virtue among us? If there be not, we are in a wretched situation. No theoretical checks, no form of government can render us secure. To suppose that any form of government will secure liberty or happiness without any virtue in the people is a chimerical idea. If there be sufficient virtue and intelligence in the community, it will be exercised in the selection of these men; so that we do not depend on their virtue, or put confidence in our rulers, but in the people who are to choose them", quoted in: *The Federalist Papers*…, p. XXIII.

[81] F. McDonald, *Novus Ordo Seculorum: The Intellectual Origins of the Constitution*, Lawrence 1985, p. 70–71; J. G. A. Pocock, *The Machiavellian Moment*...; the concept of cyclical decay is of course from Polybius; see also: P. A. Rahe, *The Primacy of Politics in Classical Greece*, "American Historical Review" 1984, No. 89, p. 265–293.

A discussion about virtues was present in America from the beginning and was conducted in the colonial period mainly within the framework of a Christian imaginary.[82] It erupted with gusto during the revolutionary period. This discussion relied very much on the language and concepts of the hitherto available classical, Christian and Renaissance republican variety of sources, but in the essentially new conditions of commercial modernity. In this formative period of the American statehood, it can be heuristically ordered by two different approaches, represented by two schools of contemporary historiography, called "republican" and "liberal". The republican school roughly claimed that the classical ancient as well as civic humanism form of republican thought derived from sixteenth-century Italy. Allegedly, a lot from this classical thought was to prevail among the original English commonwealthmen and the original Whigs, and was to be represented by the Anti-Federalists. The latter's plans were to be more directly geared to an inculcation of virtue, both in a civil society as such as well as through republican institutions.

A more modern, liberal element was allegedly predominant among the Federalists, with James Madison's idea of an extended republic and the corresponding creation of virtue despite the centrifugal tendencies of commercial modernity. According to this republican school there was in America during the revolutionary period a definite classical republicanism present, characterized by such virtues as dedication to the public good, willingness to sacrifice one's private interests to the common interest, and the belief that to participate in public affairs was the most worthy of activities.[83]

The liberal school repeated the traditional, Lockean interpretation of the American founding, deemed canonical, with its stress on individualism, individual rights, self-interest, procedural justice and privacy, and a radical separation of matters public and private as a precondition of liberty.[84]

It is doubtful that the modern, American version of classical republicanism existed in the 18th c. in the first place, whether in its classical ancient form or in its Florentine Machiavellian civic humanism form, if only for the simple reason that such republicanism had an inherent totalitarian potential. Americans were too obsessed with liberty and rights to think about the public good in such radical terms as the above schools envisioned it.[85] Their culture was modern, and the categories

---

[82] J. Winthrop in *A Model of Christian Charity* expressed his purpose to unite his people behind a single purpose, the creation of a due form of government, which was to be ecclesiastical as well as civil, so that their community would be a virtuous one fulfilling a Covenant, and at the same time would be a model for the Christian world to emulate. This community was to be a virtuous and universal *City upon a Hill: An American Primer*..., p. 19–25.

[83] Here the works of G. Wood and J. G. A. Pocock cited above are crucial as well as Joyce Appleby, especially *Liberalism and Republicanism in the Historical Imagination*, Cambridge Mass. 1992 and *Capitalism and a New Social Order: The Republican Vision of the 1790's*, New York 1984; also: S. Filipowicz, *Pochwała rozumu i cnoty republikańskie credo Ameryki*, Kraków 1997.

[84] A seminal work here was L. Hartz, *The Liberal Tradition in America*, New York 1955.

[85] The most thorough study of differences between the ancient and modern notions of republicanism is P. Rahe, *Republics Ancient and Modern*, Chapel Hill 1992.

of thought which were taken for granted by, for instance, the Athenians or the Florentinians, were totally alien to them.[86]

The Declaration of Independence was in one sense a modern document. If there was any definite conception of virtue or of any ultimate good in it, it was Christian liberty. It was the liberty of pursuing the good life according to the moral precepts of natural law, not the ancient conception of virtue as a total engagement in a life of the republic and its public good. Virtues were to be a goal to be achieved both in personal life and in public life, but such virtues were not necessarily subsidiary to the public good, as the Roman gods were used for this purpose. The concept of virtue in the Declaration of Independence was a yardstick to judge the justness and goodness of a public order, in accordance with the external precepts immutable to political intervention. It thus had a distinction between *sacrum* and *profanum* built into it. It was derived from the New Testament, elaborated by St. Augustin and finally visible clearly in natural law concepts, not necessarily inimical to a modern concept of liberty.[87] There was no blending of the public and the private. Politics was definitely not everything which was valuable to life. This Christian conception of virtue was to be offered for the public good, but there was essentially nothing in it which could submerge personal life and its conception of virtue derived from the Christian *Logos* to a state, whatever its name.

In that sense, the Christian moral and cultural code of America dovetailed nicely with the liberal concept of an autonomous individual, his conscience as a site of morality, rights against the state, and the private life of individuals and associations, as families and churches, being immutable to claims of the republican common good, if it contradicted such precepts. The subsequent, modern development of liberalism finally equated such individualism with moral individual autocreation, and with the corresponding responsibility of a welfare state to organize it in such a way, so suffering would be nearly eliminated from the human condition. Individual moral and material autocreation according to a pursuit of happiness wanted to liquidate alienation, that is suffering. The welfare state is here burdened with the same task, even if its goals and definitions of what suffering means are more and more defined by the elites and "experts", as well as the commercial market. But such liberalism would be a clear anathema to the Founders. This modern idea of liberalism not only contradicts the Christian concept of virtue; it is dangerous to it.

This is the case not only for moral and religious reasons. It contradicts the Christian concept of virtue for political reasons as well, since it demands from any private and autonomous institution a disposition to be in unison with this liberalism's anthropological conception of individual moral freedom. This puts a demand on these autonomous institutions, and makes it the duty of a liberal state to ensure the "liberation" of an individual's disposition to moral freedom from the shackles

[86] See on that: T. Pangle, *The Spirit of Modern Republicanism: The Moral Vision of the American Founders and the Philosophy of Locke*, Chicago 1988, p. 7–40.

[87] C. Wolfe, *Natural Law Liberalism*, Cambridge 2009.

of such institutions, for instance families, churches, associations. This is clearly a totalitarian idea.[88] But the seed of this development stemmed unavoidably from this logic of modernity, as described above, and its evolution of understanding of a concept of the "pursuit of happiness" from the Declaration of Independence, from natural law to moral autocreation. In such a case references to natural law and "nature's God" could be treated as just an effort to soothe the terrifying implications of modernity, which John Locke put into a coherent intellectual system, transforming the God of the Bible into the God of reason and nature, which became autonomous and self-justifying entities.[89]

Liberalism in its ontological and anthropological implications was born as a concept definitely with the potential to transform reality and define it in a new, monistic way. During the American revolution no one yet conceived of virtue as a quality concocted out of an autonomous self. Virtue was then firmly placed within Christian ontology and anthropology. It was a quality of mind and character which had to be inculcated, so it could be put forth in the service of a republic in conditions of liberty, defined mainly not as a positive force, except in rebellion against Britain, but as a negative one, defined by rights against any powers that be. If there was any other idea of morality, not religious in character, it was rather derived from different, not contradictory sources, in principle aiding this Christian conception of virtue born in a properly shaped conscience.[90]

The classical concept of virtue was evoked repeatedly during the American founding period, and political thinkers or preachers were well read in the works of the ancients, but this concept was more a rhetorical device. It was also filtered subconsciously through the lenses of the Christian concept of virtue. But in fact, American revolutionary thought referred less here to classical or civil humanism, despite the vocabulary used. It stemmed mainly from that strand of the Whiggish thought which was transferred to America, that is the Commonwealthmen, or the real Whigs like Edmund Burke, and the Lockean Whigs who believed in natural rights.[91] Yet the Americans of the revolutionary era spoke languages which meant different things to different people, and derived their ideas from whatever school they could think of, very often for rhetorical reasons.[92] One of these languages was obviously classical or civic republicanism. The new American republican thought, like the classical republican one, after all had a strong anti-tyrannical bent. But the

[88] Its full exposition was incorporated into the Supreme Court decision of "Casey v. Planned Parenthood" of 1992.

[89] T. Pangle, *The Spirit of Modern Republicanism*..., p. 129–275. Or, which amounts to the same, to Kant's autonomous reason, which in principle seeking universal precepts of morality in concord with "nature and nature's God" finds only itself, essentially the situation of much of Protestant mainline Christianity today.

[90] They were, for instance, a concept of a "moral sense" inherent in every individual, or a rational concept of morality firmly rooted in an idea of its objective ontological status. The moral sense idea was taken from the Scottish Enlightenment.

[91] See: E. Burke, *Speech to the Electors of Bristol, 3 November 1774*, [in:] idem, *Works*, Boston 1901, Vol. 2, p. 89–98.

[92] See: J. T. Kloppeberg, *The Virtues of Liberalism*, New York 1998, chap. 2.

old words took on modern meanings in the American context, being applied to political day-to-day causes, as a revolutionary battle cry.[93]

The novelty of the American political enterprise was clearly recognized.[94] American republicanism was entirely modern, looking to the future, not nostalgic, cyclical, or harking back to classical republicanism or civic humanism. If the founders used the language of classical republicanism and civic humanism with such key words as "civic virtue", this was a modern, different notion which such rhetorically used words signified. At the heart of the American republicanism of the Founders was a new vision of civic virtue. Government was not in charge of making citizens doers of noble deeds, since in conditions of freedom and an individual "pursuit of happiness" that was inconceivable. It did not exclude the fundamental question whence virtue?, public and private, necessary to sustain such a commercial modern republic, and did not avoid the question of how it could do justice to the higher dimensions of human freedom, recognizing this debilitating force of the commercial instinct. The ultimate aim was a cultivation of freedom, but it was freedom which was both not tantamount to licence and also excluded an organic society, supervised by the guardians of any orthodoxy. Such freedom required self-knowledge, moral training, and a sustained public argument over different interpretations of the common good in the conditions of democracy.

Such self-knowledge could be aided by a public argument, but moral reasoning could be acquired only in the civil, pluralistic, free society and its robust culture. America had faith in its civil society, including religious or family life. Virtues which could be attained in modernity were definitely aided by Locke's argument and his method of converting the God of the Bible as a direct commander of a state and the human conduct within it into a God whose precepts were applied into concrete situations through reasoned argument. God, in other words, ceased to be the Godfather. He became a God who gave humans freedom to seek the good in the conditions of dramatically complicated situations of modernity. This was to be a God who communicated with humans on the basis of a reasoned argument over natural law, which was discernable both to believers and non-believers alike.[95]

This type of a regime required a definite type of a robust civil society, and a trust in the moral sense of the common people to discern common good and engage hopefully in an argument over the nature of this good. It did not exclude religion, mainly Christianity, since it could not. Religious, theological language, grounding

[93] For instance, even the most vocal agrarian republicans of Jefferson's revolution against the "capitalistic" Hamiltonian order had little to do with classical republicanism Y. Appleby, *Liberalism and Republicanism*..., p. 317–318.

[94] See: T. Paine, *Common Sense*, New York 1986, p. 120. T. Jefferson, *Letter to Dr. Joseph Priestley, March 21, 1801*, [in:] *The Writings of Thomas Jefferson*, ed. M. Peterson, New York 1984, p. 1086. J. Taylor, *An Inquiry into the Principles and Policy of the Government of the United States*, Indianapolis 1969, p. 12, 346.

[95] See on that type of modern republicanism: T. Pangle, *The Spirit of Modern Republicanism*...; on the reasoned argument over natural law not having biblical sources see: R. P. George, *In Defense of Natural Law*, Oxford 1999, H. Arkes, *Natural Rights and the Right to Choose*, Cambridge 2002, also the classical J. Finnis, *Natural Law and Natural Rights*, Oxford 1980.

people's inalienable rights in reality higher and untouchable to any human power, was valid per se. It was the language which could contribute – in fact it was necessary – to an understanding of self-governing people collectively and individually, as telling them something important about their predicament and existential status. In that sense American modernity was devoid of the radical anti-theological stance of European modernity. There was no political-philosophical rejection in America of the Christian theological stance towards the pagan nature, and the latter's Gnostic element of dividing reality as in need of constant redemption by an insight accessible to the chosen elite on a basis of reason, against recalcitrant masses.[96] This impulse turned into a distinctive recognition of the life of ordinary people as in danger and in need of constant improvement by "experts", the cognoscenti, the new Gnostic elite. As a consequence the Enlightenment idea of progress coupled with the Gnostic impulse of "liberation" from the corrupted existence has led to the total destruction of traditional Christian anthropology in Europe.[97]

This anti-Christian, lay attitude was profoundly alien to America. America never had this Gnostic impulse of separating the elites knowing "better" from the masses, since the American experience was the experience of profound self-government. For the Americans it was thus obvious that the leaders had to follow the nation, when in Europe it was the other way round. Democracy in America put stress on creating just the procedures, guarding a life which was chosen by the people and which was inaccessible to politics organized by the elites on the basis of abstract reason. The European elites have had an inherent tendency to educate the masses on the basis of the enlightened reason. In America a theological, Christian language was part and parcel of public discourse, as a necessary ingredient of defining the very meaning of the life of the self-governing people. In other words, theological conceptions of nature ensured that that account could be engaged dialectically as part of legitimate public language.

This perspective took it for granted that theological language was part of a reasoned argument. It accepted as a given that if there was a possibility that nature pointed towards the divine, then theology could remain part of a rational, public discourse. If nature, on the other hand, did not point at all, in other words it was senseless from a moral point of view, if not from the evolutionary point of view, or such points were multiple aiming at incompatible directions, then they necessarily referred us back to the whims of our desires, rationally justified. In such a case a theological account of nature would amount to inconsequential nonsense. The Christian conception of nature assumed that the aim of human life was to achieve a certain moral equilibrium, aiming at a certain definite moral goal through con-

[96] See on that G. Himmelfarb, *The Roads to Modernity*...; A. Bryk, *The United States, the European Union, Eastern Europe – Different Approaches to Modernity*, "Krakowskie Studia Międzynarodowe" 2008, No. 1.

[97] See: C. Delsol, *Icarus Fallen*, Wilmington 2005; C. Godin, *Koniec ludzkości*, Kraków 2004, p. 102–107.

formity to an encompassing order. That was definitely an idea of American culture in the 18th century, and the moral universe from which the Declaration of Independence stemmed.

Having said that, one must add immediately that the American regime did not accord the religious argument, mainly the Christian one, or any other argument, the ideological place of a government-sponsored virtue. When we talk about American republicanism, we have to place it strongly within the confines of modernity, even if some of America's political thinkers in the eighteenth century wanted to conceive of government as having a more direct role in inculcating virtue. But the liberty of the modern man had to start with a negation of any higher law directly inculcated. Nevertheless, even with this assumption there were some nuances as to what it meant in practice. In general, the virtues sought were to be left to the civil society. Thus, for the Federalists, especially Madison, republicanism tended towards not so much a realization of definite virtues, but the proper organization of institutions in which individual rights would enable Americans in civil society to develop virtues, and offer them in turn in the public market for the common good.

The Federalists understood that there was a certain "unloveliness" about the commercial, modern republic. It encouraged, in fact relied upon, a vigorous pursuit of wealth, which was in itself a rather depressing activity, if not harnessed. The market could not of itself produce virtues.[98] But the American republic would also escape the predicament of conflict between the rich and the poor, since citizenry interested in the acquisition of property or wealth would have little time for ideological disputation or patience with it. A modern commercial nation, organized around the acquisition of property, would be characterized by an extensive division of labour and fragmented into such a diversity, as Madison stated, that is "multiplicity of interests", that this fatal struggle between the rich and the poor would be averted. A fatal republican division would not arise then in a large commercial republic necessary to contain the energy of modern individual pursuit of wealth, administered by an energetic national government.[99]

For the Anti-Federalists the Federalists were too optimistic. The Anti-Federalists were, in general, not afraid of virtues being put at the centre of the republican government which was in a position to entertain the possibility of promoting them, or creating conditions of their reproduction. This inculcation of virtues could be possible directly or indirectly. With the rights of individual citizens secured at the same time, there was no danger of the General Will being imposed on a minority, whether a minority of one or the many. But the concept of scale was crucial here. The big republic as entertained by the Federalists would create factions and interests which would prevent the civil society from producing virtues and retaining

[98] *The Federalist Papers*…, Federalist No. 12, p. 91–92.

[99] *The Federalist Papers...*, Federalist No. 10, p. 83; M. Diamond, *The Founding of the Democratic Republic*, Florence KY 1981, p. 70–79; W. A. Schambra, *The Roots of the American Public Philosophy*, [in:] *American Federalism: A New Partnership for the Republic*, ed. R. B. Hawkins, San Francisco 1982, p. 20–22.

rights, despite Madison's hopes. The small republic would enable both to be within a certain fruitful tension.

The Anti-Federalists, after Montesquieu, feared that a republic was only possible in a small territory, because only then could republican virtues, necessary to sustain its continuous, uncorrupted existence, be produced. Public-spirited or virtuous citizens were possible only if they were imbued with the "love of the laws of our country". The exhibition of a "constant preference of public to private interest" was necessary, since only an alert, public-spirited citizenry would give the amount of attention to public affairs that self-government or republicanism required. Then the virtues created in the institutions of civil society could be, so to say, "used" properly in the public sphere of the republic. For this reason any virtue could arise and be sustained only in a genuine community, where there was a close proximity of the citizens, where they sensed their oneness with others. For this reason the Anti-Federalists argued for a homogenous citizenry. Thus in a republic "the manners, sentiments, and interests of the people should be similar. If this could not be the case, there will be a constant clashing of opinions."[100]

But both the Federalists and the Anti-Federalists understood by instinct that politics preceded economy, and that culture and religion preceded both economy and politics. It was ultimately culture and religion which were to decide about freedom being retained. Religion is indispensable for culture, since it answers the most fundamental questions about who human beings are and why there should be human freedom in the first place. Such a culture in which religion was a crucial component and which was a guarantee of freedom and prosperity was in turn formulated by all institutions which deal with the indestructible questions of human spirit and try to inculcate them to the young. These were the institutions of civil society, such as family, churches or associations. In principle, such institutions in a free society which renounced any idea of freedom organized from above, where the state takes on a role of inculcating definite values, were pluralistic. But such moral values created in the civil society were internally accepted as important and as a guide in life to be put forth in the service of a free republic. Their plurality forced a dialogue and compromise based on serious considerations of free people about how they want to govern themselves.

Freedom and plurality of an autonomous civil society ensured the seriousness of the commercial civilization itself, they guarded it against the *hybris* of unrestrained license of equating a pursuit of happiness with commercialism, or a conviction that rights were in service of an unrestrained desire. The Constitution, the federal republic, rights, self-government, "extended republic" mechanism, separation of powers, independent judicial power – all of them were to provide a necessary public, political space of securing freedom of all and each individually within the horizon of a morally responsible society. It is true that the American regime was

[100] *The Federal Farmer*, [in:] H. J. Storing, *The Complete Anti-Federalist*…, p. 208–214.

not constructed of virtue and piety. It [did] not guarantee those things. It is also true, however, that [American constitutionalism] [did] not prohibit virtue or piety or their influence upon public policy. In aiming at moderation, at limited government, at republican cures for republican diseases, it protects against zeal and against sectarian rigor. It was never intended to protect moral idiosyncrasy against the common sense and the common decency of the majority of the people being schooled in the civil society institutions.[101]

The Federalists thought that the federal republic would be good enough to secure such a society. The Anti-Federalists were afraid that it would not. But both had a clear understanding that they were dealing with a modern, commercial civilization with potential for self-destruction as well as grandeur, and they tried to cope with this challenge. For both of the camps freedom was the overwhelming value, not in a sense of licence, but in a sense of creating one's own life in the most fulfilling way, the meaning of the pursuit of happiness.[102] The Constitutional Convention was a compromise, making this tension of ideas between the Federalists and the Anti-Federalists a constant legacy of American society.

Here, federalism was crucial for this independence of civil society institutions. For once, federalism was the basic constitutional principle, with important governing powers left to the states. The constitutional commitment to federalism

insures that state and local governments survive, and that they continue to supply some of the goods valued by the Anti-Federalists largely as a result of Anti-Federalist efforts, [Americans] have federalism that preserves and nourishes local community attachments, civic virtue, and public-spiritedness, as well as a large, commercial republic that secures prosperity and liberty.[103]

Tocqueville understood this complex coexistence of the Federalist large republicanism and the Anti-Federalist small republicanism, observing that the Americans had "forcibly reconciled" those "two theoretically irreconcilable systems". Tocqueville was aware of the large, commercial republic which had given

free scope to the unguided strength and common sense of individuals [which caused the danger of an individual pursuit of wealth since it is] always an effort [for commercial people] to tear themselves away from their private affairs and pay attention to those of the community; the natural inclination is to leave the only visible and permanent representative of collective interests, that is to say, the state, to look after them, which were the perfect conditions for tyranny. Commerce, in addition, had a tendency to dehumanize, with a corresponding "love of comfort" which makes the individual prone to pursue only "petty aims, but the soul clings to them; it dwells on them every day. In the end they shut out the rest of the world and sometimes come between the soul and God". Americans thought that they had found a solution to this danger with its self-government and private associations, the two sides to federalism giving each part of the land its own political life so that there would be an infinite number of occasions for the citizens to act together and so that every day they should feel they depended on one another.[104]

---

[101] R. G. Stevens, *The Constitutional Completion of the Liberal Philosophy of Hobbes and Locke*, "The Political Science Reviewer" 1987, Vol. XVII, Fall, p. 284.

[102] This was the very essence of one of the Anti-Federalists' major thinkers, one Brutus, against the possible usurpation of powers by the Supreme Court. See: H. J. Storing, *The Complete Anti-Federalists*..., p. 130–196.

[103] W. A. Schambra, *The Roots of the American Public Philosophy*..., p. 26.

[104] A. de Tocqueville, *Democracy in America*, Chicago 2000.

The private associations, another name for civil society, served the most important purpose of drawing men upward from mere self-interest into public life, combating the dehumanizing effects of individualism. Citizens acting together and depending on one another come to form a genuine community; a certain public-spiritedness or civic virtue is generated by local self-government, and men come to love their "little republics". Such public-spirited citizens, Tocqueville noted, will not be likely to surrender control of public life to the state.[105] For Tocqueville, then, the "forceable reconciliation" of "two theoretically irreconcilable systems" was absolutely central to the survival of American liberty and civic virtue at the same time. A democratic republic was maintained, according to him, by the federal system which "allows the Union to enjoy the power of a great republic and the security of a small one".[106] The two systems would always be in tension, since, as Tocqueville thought, each was threatening to the other, trying to consume it. At the time of Tocqueville, the states threatened the union; later it was the national government which threatened the states. This healthy tension could be threatened also by this consumption of the civil society by the exigencies of the industrial market, the challenge which was met by the new synthesis which was attempted by modern liberalism.[107] Whatever the merits and demerits of a tension within the American federal system its republicanism contained a particular tension inherent in modernity, which, apart from republicanism's institutional setting, was visible also in challenges posed by this modern, autonomous conception of liberty. In practice the American republicanism of the eighteenth century contained in itself a particular notion of liberty which combined the natural law concept of it as a pursuit of a particular good by the community, and a very strong stress on individual rights executed against external power.

Modern Liberty and Virtue

A concept of liberty inherent in such republican thought took on different shapes in particular rhetorical and conceptual expressions, in political writings as well as in public deliberations. Liberty in a classical republican paradigm, or a different Christian liberty, on the one hand, and liberty within a modern, or liberal paradigm on the other hand, were distinct, and in certain aspects contradictory concepts. The classical liberty concept entailed a notion of freemen participating in political decisions in the public arena with a stress on disinterestedness of civic virtue, where political life was the very essence of the real existence. The Christian concept of

[105] W. A. Schambra, *The Roots of the American Public Philosophy*..., p. 26–27.

[106] A. de Tocqueville, *Democracy in America*...

[107] It began with Theodore Roosevelt's "new nationalism" and Franklin Delano Roosevelt's "New Deal" and eventually the "Great Society" liberalism of the 1960s. W. A. Schambra, *The Roots of the American Public Philosophy*..., p. 30; R. Hudelson, *The New Liberalism and the Foundations of the Welfare State*, [in:] idem, *Modern Political Philosophy*, ed. M. E. Sharpe, New York 1999, p. 59–70.

liberty was defined already as liberty against a state, at least the omnipotent state preventing the creation of a properly shaped moral conscience. Stress was put on a pursuit of the common good, provided the truth in moral as well as communal life went hand in hand. In contradistinction to the classical tradition, political life and public participation to achieve the glory of a republic were dependent values, necessary and useful as long as they aided the basic goal of moral development, which was to lead individuals towards salvation.

The modern, liberal notion of liberty as expressed by Americans during the revolutionary period had many inherent contradictions, since it was a motley of diverse traditions welded together in different ways. Such an idea of liberty definitely did not contradict its understanding visible in the common law constitutionalism, although again, which side of this common law constitutionalism it alluded to was not entirely clear. It could be a notion of liberty connected with the ancient constitution which extolled experience and tradition, the way Edmund Burke did.[108] It could also allude to another strand of common law constitutionalism, which took it for granted that what the common law created through time expressed at the same time immutable notions of natural law tradition, the way Edward Coke or William Blackstone espoused it.[109] Such a notion of liberty did not contradict per se some aspects of the Christian idea of the separate realms between private and political, *sacrum* and *profanum*, although such a notion of liberty lacked a definite aim for an individual to achieve, the latter being in fact commensurate with the fact of life itself.

The notion of liberty was mainly, in public expressions, connected with security of rights against governmental intrusion, a difference between diverse traditions of rights expressing themselves mainly in different areas of an individual's life, which one was to protect with rights. Definitely this liberal idea of rights very strongly stressed security of possessions in the private sphere as a bulwark of resistance. There were also other particular liberties secured by law in a form of rights which limited the scope of public authority. There was thus a clear difference between the classical and Christian notions of liberty, which were in themselves lofty ideals, and the modern one, where "the liberty of legal rights pertains to the mundane and everyday aspect of living".[110] The classical and especially the Christian concept of liberty did not necessarily define precisely a type of regime in which such a concept of positive liberty could be defined.

The liberal American concept of liberty pointed towards a particular type of a regime. The traditional – that is the classical and the Christian – as well as the modern concepts were also very visible in the American revolutionary and constitutional distinctions. Thinkers and politicians sometimes used a language of both traditions, trying to reconcile them, usually in vain, by allegedly combining the best

---

[108] See observations of J. G. A. Pocock on Burke in his *Politics, Language and Time*, Chicago 1989.

[109] A. Bryk, *The Origins of Constitutional Government*..., p. 171–188, 232–235.

[110] J. Appleby, *Republicanism in Old and the New Context*, "William and Mary Quarterly" 1986, Vol. 43, p. 18.

elements of both, a trait especially visible in the Anti-Federalist school. Modern liberty, the liberal one, was visible strongly in common law constitutionalism, so it was useful in arguments with the British, since it challenged them in a language common to both antagonists. It seems that for this very reason it was predominant in the American revolution, as it contrasted with republican classical tradition, called "civic humanism", which was employed more as a communal expression of ideology against tyranny as such, in the name of some lofty ideal of the people with a definite conception of the common good inherent in their distinctive tradition. But the key words in this vocabulary of America's concept of liberty were mainly legal in character, like "property", "law", "custom", "ancestors, "inheritance", "rights" which were commensurate with the common law tradition, of which the major ingredients were *meum et tuum* or "property and the rule of law".[111]

But at the same time such a concept of liberty and rights was never understood to be devoid of virtue, of the capacity to behave in a moral, proper way. This was so because such a concept operated within a context of a definite culture, which had the capacity of creating "good", civilized and in fact – so the Americans thought – the most advanced culture. It was historically developed within the Anglo-Saxon world, as the Whigs thought, or as some common lawyers thought, culture being commensurate with natural law developed in history through the institutions of the common law.[112]

For this reason, liberty was definitely not licence; it was firmly rooted in civil society's institutional, traditional cultural framework and natural law, and subsequently natural rights tradition, depending on a context, an idea visible in the Declaration of Independence. This modern need to ground liberty, and the public order on which it was based, in virtue stemming from natural rights, was especially developed during the founding era by James Wilson and James Madison. All of the above understandings of liberty culminated in a colonial revolutionary movement. It initially took the form of challenging the British parliament in the name of the balanced Constitution, then eventually in the name of universal natural rights, being understood as commensurate, not contradictory to the common law rights.[113]

This bridge between English liberties and natural rights, one tradition of common law constitutionalism, was thus easily built into the language of the Declaration of Independence. The latter was in fact structured by Jefferson as a bill of equity, so within the general rules of the common law constitutionalism, visible, for instance, in William Blackstone.[114] Jefferson only repeated it in the Declaration of Independence in much more philosophical language via John Locke. There was a conviction that British liberties were in fact expressing not only an experien-

---

[111] J. H. Hexter, *Review Essay*, "History and Theory" 1977, Vol. 16, p. 334.

[112] B. Bailyn, *The Ideological Origins of the American Revolution*..., p. 77; J. P. Reid, *The Concept of Liberty in the Age of the American Revolution*, Chicago 1988, p. 6–7.

[113] *Ibidem*, p. 8.

[114] P. Ch. Hoffer, *The Law's Conscience*, Chapel Hill 1990, p. 71–76.

ce in liberty of particular people, but the very essence of the natural order of the universe, the rights of mankind. The English concept of liberty was thus not only true because it was ancient, it was true because being ancient it reflected through experience the universal rights of men.[115] In the eighteenth century such reasoning did not contradict the so-called Whig conception of history, nominally rooted in a tradition of liberty of particular people, because it meshed nicely with Coke's and Blackstone's tradition of common law constitutionalism, which considered Britain a carrier of universal rights of liberty in common law as the rights of all humanity, since expressing natural law.[116] Jefferson's universal language of the Declaration of Independence shifted only the place of the historical carrier, responsible for its implementation in the world, from England to America.

But the concept of liberty was also often used in an abstract form, not related to concrete events and institutions. It was more a rhetorical battle cry, a justification of one's sense of grievance and importance, as well as unbound autonomy of one's own being. This was liberty as autonomy, and was inherent in the moral autonomy of a person under the protection of God, entering into a personal relation of moral covenant with each human being, an idea both of Jewish as well as of Christian theology. This personal relationship could not be morally subverted under any circumstances by any power. For this reason, this liberty as autonomy reflected deeply a biblical concept, and was taken for granted by political thinkers long after the advent of modernity, with definite political, legal and social consequences. Liberty as an inherent moral right of autonomy within the perimeters set by the biblical God was well captured by Blackstone, who repeats essentially the Christian postulate of natural liberty rooted in a free will as unlimited in its operation, provided it does not overstep the boundaries of natural law rooted in God's law.[117] The same idea was visible, for instance, in Samuel von Pufendorf in the seventeenth century, and in the America of James Wilson or James Madison.

This liberty as autonomy was also conceptually possible and well received in America, because of a sense of control over one's own life and an ability to shape it unbound by any social and economic limitations. This feeling of control corresponded to one's sense of self-importance and dignity inherent in such a situation.[118] The Americans knew that the word "slavery" they used, which could be properly applied only to the conditions of the black population or European serfdom, was to a great degree a rhetorical figure. But in their usage it meant an

---

[115] W. Blackstone, *Commentaries on the Laws of England*, Vol. 1 **(**Facsimile of the First Edition of 1765–1769), Chicago 1979, p. 120–121, 125.

[116] No one made this Whig idea of liberty being coeval with England more appealing than the poet James Thomson's "The Seasons", "Britannia" (1729), "Rule Britannia" (1740) and especially "Liberty", the latter a huge autobiography of the goddess of liberty which "details the long history of her ancient greatness and her ultimate revival in Hanoverian England." B. Baylin, *The Origins of American Politics*, New York 1968, p. 17–18.

[117] W. Blackstone, *Commentaries...*, Vol. 1, p. 121.

[118] J. Hector St John de Crevecoeur, *What is an American?,* [in:] *The Faber Book of America*, ed. C. Ricks, W. L. Vance, London 1992, p. 241–243.

attempt to reduce their political and cultural freedom to shape their own life as they pleased. This uncompromising idea was elevated into the universal rights language of the Declaration of Independence, where legitimate government was combined with liberty. Liberty meant here, of course, political liberty, but at the same time liberty as an environment for realizing one's own conception of good life, according to one's morally recognized own limits set by natural law and ultimately God, that is if one led an essentially virtuous life. Happiness was connected with moral truth, a path of virtue.[119] Freedom meant conditions for this pursuit of happiness, and happiness meant the path of virtue prescribed by natural law. For this reason this "pursuit of happiness" put into the Declaration of Independence did not mean that human beings had a right to pursue happiness by all means. Such an assumption was absurd, since no society could be built on such an idea.

To pursue happiness meant to pursue it within legal means, that is all possible means which the law of nature has prescribed from time immemorial and which human laws should just sanction. This might appear to be a tautology: people have a right to pursue happiness to everything to which they have a right. But in the conditions of the eighteenth century, this was not an arid tautology. It corroborated the moral disposition that all legal means applied to the pursuit of happiness, which were legal for some, were to be extended to all, so each individual human being, not a member of a particular class, caste or religion, was subject to it. At the time this was a revolutionary idea. It also had another implication, stemming both from this equality principle and from the practical conditions of the British abuses combined. No government could be legitimate, that is free, if it prevented such a pursuit of happiness, that is if it, as a consequence, corrupted virtue. Only such a government was free and legitimate, which created the conditions for an individual's pursuit of happiness within the parameters of virtue.

It was an awesome task for Americans to create such a legitimate government, in the conditions of an essentially modern, commercial civilization. They could also accept Thomas Hobbes's diagnosis, that morality was just a function of utility and security created by a state among individuals, ferociously fighting each other. But Americans as a society rejected Hobbes's solution for the same reason Pufendorf, Blackstone, Wilson and Madison rejected it. They subconsciously treated it as a projection of faulty logic and an error of moral judgment. True, the end of *Christianitas*, civil wars and the breakdown of order that followed, as well as a commercial acquisitive impulse modernity unleashed, seemed to force a new definition of human ontology and anthropology.

But Americans refused to accept such logic, since their conditions were different, and their sense of existence within perimeters of their civil society, and already within a commercial civilization, excluded such a radical reorientation of human existence. Nevertheless, the question was as follows: how to avoid the

[119] See on that: W. A. M e l l, "James Wilson, Alexander Hamilton, William Blackstone, Organic Principles of Constitutional Government", PhD Dissertation, Department of History, University of Oregon 1976, p. 12–16.

temptation of politically motivated practices imposing virtues from above, which would endanger liberty and autonomy and easily turn into a corrupting tyranny, but at the same time how to create an institutional framework which would create conditions for a private pursuit of happiness congruent with virtue, out of a conscious decision? Such virtue which would be congruent with a sense of happiness, without turning the latter into a desire for moral autocreation justifying mundane interests. This combination of constitutional government with virtue could be a direct one, endangering liberty, or an indirect one, giving a chance for virtuous life, yet risking at the same time a slide towards licence.[120]

Modernity was based on one fundamental natural truth, out of which the individual pursuit of happiness was derived. All men were created equal. For this reason consent to government was a requirement of justice. This idea of equal rights was connected with this fundamental precept. Natural rights were to guarantee justice, the fundamental right of each individual to pursue happiness as a road towards fulfilling the moral potential inherent in humans. Such was the reasoning of natural law philosophers like Pufendorf or Blackstone, and the American constitutional reasoning, as exemplified, for instance, by Wilson or Madison, was heir to it. Yet there was a dilemma. Although natural rights were in principle self-limiting, the trick was to turn this principle into practice.

For this very reason a creation of a political order which would maintain natural justice explicit in natural-rights theory required political understanding, which would go deeper than modern political mechanics, that is deeper than a mere institutional framework. Something more was required, morally conscious citizenry, which had to be continuously cultivated, and a relationship between the political sphere and civil society was to be properly established. This idea was constantly on the minds of the American constitutional leaders. Madison, Jefferson, Wilson or the Anti-Federalists understood well the self-perpetuating role, that is not directed by any imposing authority, of the public opinion and civil society institutions. They gave vital support to them, both through traditional institutions like churches, communities or families and new, democratic ones, such as new transportation routes, free circulation of newspapers, and a constant flow of ideas between citizens and representatives. This new, democratic, modern age demanded a construction of

[120] This combination of good government with happiness was visible in John Adams in 1753 when he was just twenty-three and decided to study law, when he resolved to "aim at an exact knowledge of nature, end, and means of government; compare the different forms of it with each other, and each of them with their effects on public and private happiness". Jefferson's "Declaration of Independence" leaned on George Mason's draft of the Declaration of Rights for Virginia, eventually to be incorporated into the colony's new constitution to be drafted at the time. The first eighteen rights delineated in this draft read: "That all men are born equally free and independent and have certain inherent natural rights, of which they can not, by any compact, deprive or divest their posterity; among which are enjoyment of life and liberty, with the means of acquiring and possessing property, and preserving and obtaining happiness and safety". This was a fairly general aim of liberty, in fact a statement of an autonomous life, although Jefferson and Adams "understood the word as the achievement of virtue and moral perfection", not as a licence to shape one's own life as one pleases, which meant that freedom for the eighteenth century had carried with it obligations to society that restricted that right". D. Freeman Hawke, *A Transaction and Course of the Declaration of Independence*, New York 1964, p. 85, also 53, 147–148, 224.

a constitutional system in which there would be a chance, just a chance, for the proper functioning of public opinion.[121]

A constitutional system had thus to be created in such a way that civic virtue be created from bottom up in a process of free deliberations of people, who would deliver their judgments and conceptions of moral good, created in their respective civil society institutions, for the benefit of the republic. There was a conviction that people in general, that is individuals and as in civil society institutions, were best suited to answer the most fundamental political question of humanity, already defined by Aristotle, namely: how ought we to order our life together to live a meaningful life? In such a perspective, people not only have to organize themselves, they need to govern themselves. A state as institution was just a shell. It did not instruct the people; the people instructed the state, and a democratic republic seemed to be best suited for such a purpose. All the aforementioned premises, as universal, were expressed by Jefferson in the Declaration of Independence. In that sense a political question was at the same time a fundamentally moral question, and the mediating structures of civil society were crucial to that purpose.

Americans thus engaged in an experiment in which the people's exploration of their capacity to govern themselves in freedom, and by virtues in civil society cultivating them, was a precondition of creating a just and moral order secured by political arrangement, in this, far from perfect, world.[122] In such a system there was just a possibility of creating civic virtue, not a guarantee of it. But one point was beyond doubt. A republic was the environment best suited for free people to pursue their lives according to their ideas of happiness connected with natural justice. But it was not a value per se to create a new type of people. The republic was a framework, not a value in itself. It was just an agent of creation of virtuous, free people, best suited to pursue their happiness as a way of nearing towards a natural sense of moral order. It was the most approximate realization of the Augustinian idea of a just polity enabling people to shape their proper consciences, although not guaranteeing that.

The modern republic thus did not abandon this universal desire for creating a political order which would be suitable for creating a moral environment elevating people, not debasing them. The American leaders never succumbed to the debasing idea of human beings as animals in need of a paternalistic state teacher, let alone a policeman teaching them a new morality. They never abandoned the idea that autonomous human beings had an innate capacity for moral discernment and self-government in a constitutional order, which would enhance individuals to overcome their limitations, urging them to become better than they themselves were. This was in principle a profoundly Christian view, reformulated in the condi-

[121] B. C. S. Watson, *Madison and Public Reason*, "National Review" 2009, September 7, p. 46.

[122] See: P. L. Berger, R. J. Neuhaus, *To Empower People: From State to Civil Society*, Washington DC 1996, p. 152–153. In this essay, originally published in 1977, Berger and Neuhaus showed how the original American constitutional system was subsequently dangerously shaped by new liberalism and the welfare state, in the direction of losing both freedom and self-government on the one hand, and losing virtues and causing moral anomie on the other.

tions of modernity. This principle required new political and institutional devices to face and thwart potential disintegration inherent in it, as well as taming an impulse of escape from freedom into an individual desire of a moment.

In such a new constitutional scheme for modernity, the people were to be constantly in a process of constructing and reconstructing themselves as free moral agents in the communities at hand, but at the same time within an intellectual, moral and psychological framework larger than themselves, in which majority opinion was to be a constantly shifting ground of a moral and intellectual battlefield. This put a great responsibility on the people to be constantly vigilant. The role of pluralistic civil education was crucial here. It had to be bottom-up, civic education without a central educator. For this reason the people, in order to be and remain republican, had to be autodidacts in the larger framework of a republic, but they definitely had to be moral first, a task which a civil society could not be absolved of. The stronger the civil society and the institutions building the pluralistic civic responsibility out of a moral responsibility inculcated in churches, families or associations, the stronger the republic. The latter has only to have institutions channelling this capital into a non-threatening polity.

Patriotism meant in such a case a universal quest for a civilized polity of free, moral people capable of governing themselves.[123] A republican government was thus best suited to protect liberty which was then pursued with the precepts of objective morality, preventing freedom from sliding into moral autocreation of a moment. That meant in fact morality of natural law, the sine qua condition of moral life, the tradition of Pufendorf, Blackstone as well as the American Founders, the idea clearly put forth in the Declaration of Independence. Republicanism was thus more than just an instrument; it was a way to a new moral order, enabling people truly to achieve happiness commensurate with objective morality. True, the views of the Founders were diverse. For Jefferson, it could appear that the ultimate basis of morality was in fact, at the end of his life, utility, whatever lip service he paid to nature and "nature's God" in his Declaration of Independence.[124] But there were many other instances where his point of reference was Christian morality, even if in a Unitarian form.

For James Wilson or Madison this issue was different. For Wilson, for instance, in contrast to the "utilitarian" Jefferson, the "moral sense" was "totally di-

---

[123] This idea of a civic education without educator was an ideal of America until the turn of the 20th c., when the new idea of a central educator emerged, in the political context of progressive politicians like Herbert Croly or Woodrow Wilson, in an educational context with the ideas of John Dewey or Margaret Mead, and in a cultural context with the ideas of the new psychological movement wanting to make religious America problematic and redundant, and substituting psychotherapy for it, as a new religion in the conditions of the modern industrial civilization. H. T. Edmondson III, *John Dewey and the Decline of American Education: How the Patron Saint of Schools has Corrupted Teaching and Learning*", Wilmington 2006, esp. p. 19–36. As far as this absolutely essential character of moral, pluralistic civil education within the context of a civil society as a precondition of a free republic is concerned see R. Nisbet, *The Quest for Community*, Oxford 1953; P. L. Berger, R. J. Neuhaus, *To Empower People...*

[124] Letter on Oct. 31, 1819, [in:] *Thomas Jefferson: Writings*, ed. M. D. Peterson, New York 1987, p. 1433.

stinct from the ideas of utility and agreeableness [and nonetheless] intended to regulate and control all our other powers". This moral sense, in fact conscience, makes us "feel the beauty and excellence of virtue"; it reveals to us that "virtue and vice are ends, and are hateful or desirable on their own account". We carry, each of us, an intuition of good and evil, even if it can, as everything else, be pathologically diminished. Thus we know by intuition that good and evil are the real qualities of the human world, are thus fundamentally democratic and do not depend on a reasoned argument to grasp it, to feel it or to exercise it. Thus this moral sense or conscience is one or two "divine monitors within us" – the other being reason. Conscience and reason gave us an insight into the fundamental moral rules which Wilson termed "the Natural Law".[125] But Wilson's natural law was more in the tradition of the Scottish Enlightenment than in the Thomistic or even Stoic traditions, or the later tradition of "the judicious Hooker", or Francis Bacon, for whom "there are in nature certain foundations of justice, whence all civil laws are derived", which also presuppose rational, rigorous thinking.[126] For the latter, reason was inseparable from finding the right moral sense.

Moral sense was a friend of reason, not its enemy. But for Wilson, although reason "contributes to discover and correct the mistakes of the moral sense", those mistakes were in fact caused by reason itself, the faulty reasoning distorting the moral sense. Because reason very often deludes itself, presenting itself in fact as such:

> those obliquities, extravagancies, and inconsistencies of conduct men always approve upon an opinion – true or false, but still an opinion it is our reason, which presents false appearances to our moral sense. It were well for us, on many occasions, if we laid our reasoning systems aside, and were more attentive in observing the genuine impulses of nature. [Reason] judges either of relations or of matters of fact.[127]

The ultimate ends or first principles of morality and human action could be included in neither, but they were "self-evident", derived from "sentiment", "feeling", not reason – the idea, by the way, so visible in the language of the Declaration of Independence. Therefore, if

> the rules of virtue were left to be discovered by reasoning unhappy would be the condition of the far greater part of men, who have not the means of cultivating the power of reasoning to any high degree. [Moreover] reason, even with experience, is too often overpowered by passion.[128]

What Wilson was saying, and in fact what Jefferson was saying in the Declaration of Independence, had profound political consequences. In a democratic re-

---

[125] *Selected Political Essays of James Wilson*, ed. R. Adams, New York 1930, p. 224, 255–256, 270–275, 278, 285–291.

[126] *Ibidem*, p. 222, 239, 254, 290. Bacon's quotation from *Of the Proficience and Advancement of Learning, Divine and Human*, book II, 1605.

[127] *Selected Political Essays of James Wilson*..., p. 270–277.

[128] *Ibidem*, p. 276–279.

publican society, with sovereign people being the judges of a political order and its creators, the majority was incapable of clear reasoning. If then morality, that is moral sense, was to be derived just from speculative reasoning, society at large was in danger of sliding towards immorality and tyranny, the moral sense being possessed allegedly only by those who know how to reason. There had to be a system, then, in which the Platonic caste of men who could reason would be tempted to impose by political means their judgment of what moral sense was, on others. In other words there was a danger that a proper centralization of morality and educational means to impose would be a natural proclivity of the "wise" and politicians, who would employ their services so as to make their power more efficient.[129] The political system would then be neither democratic nor republican. But the majority of the people are capable of knowing morality, and they know it exactly by their inner moral sense and also passion for goodness, because morality is also rooted in passion or "the immediate testimony of nature prior to or deeper than reason [and only then] can morality be said to be truly natural to man".[130] Wilson thus thinks that

> public government and public law were not made for themselves: they were made for something better; and of that something better, you form the better part I, mean society – I mean particularly domestic society. In the just order of things government is the scaffolding of society: and if society could be built and kept entire without government, the scaffolding might be thrown down, without the least inconvenience or cause or regret. Government, indeed, is highly necessary; but it is highly necessary to a fallen state. Had man continued innocent, society, without the aids of government, would have shed its benign influence over the bowers of Paradise.[131]

The implications of such statements were obvious. The people were moral, but at the same time fallen. But if there was a properly formed republican government in which people truly could act in their capacity to discover moral sense, then the sum total of such a society would be moral, and in turn the political order would be moral. In other words, a republican government was the most conducive to elicit from the people the moral sense necessary to form civilized government. This was the case, thought Wilson, because this moral sense belonged to all people equally, and for this reason everyone had a right to put forth his moral sense in service to

[129] The secularized idea of such a moral educational effort towards a "recalcitrant" society has become a staple of contemporary liberalism, with the state as central educator. This state captures on the one hand more and more fields and institutions of a civil society so far inaccessible to it, and on the other tries to "educate" people through them in the precepts of one, "true morality" defined as appropriate, by contemporary intellectuals and "experts", the only possessors of a true "reason", and thus "morality" to be imposed on a society at large. A corollary of this "centralization of correct ideas" is a gradual liquidation of the plurality of political opinions, political correctness and an attempt to "punish" all, in principle autonomous institutions of a civil society for not professing allegiance to such ideas. This, in essence, is also a tendency of the constitutional tribunals to seize on human rights, constantly being redefined and enlarged, to impose their notion of a "just" society by judicial fiat, beyond democratic process. See on that in the European context P. Manent, *A World Beyond Politics*..., p. 98–109, 121––129, 171–185; L. A. Power Jr., *The Supreme Court and the American Elite 1789–2008*, Cambridge Mass. 2009; R. Hirschl, *Towards Juristocracy: The Origins and Consequences of the New Constitutionalism*, Cambridge–London 2004, esp. p. 149–210.

[130] *Selected Political Essays of James Wilson*..., p. 281–285.

[131] *Ibidem*, p. 209–210, 234.

a society, each had an equal standing towards the other, the idea unequivocally expressed in the Declaration of Independence proclaiming moral equality of all people. That was liberty as autonomy of shaping a human world with others.

For this reason the new federal United States Constitution would establish, so Wilson thought, the first government in human history to be grounded on the true principles of natural right. That was why "in this government liberty shall reign triumphant".[132] What Wilson meant by liberty was

> civil liberty [defined as] natural liberty itself, divested only of that part, which, placed in the government, produces more good and happiness to the community than if it had remained in the individual.[133]

He was in effect saying that liberty resided in civil society as such, and government was only there to limit the excesses of it, or enhancing its potential. In other words, the richness of civil society as a milieu of creation of this moral sense was the essence of liberty. A republican government was best suited to sustain it, perpetuate it, and guarantee that people would be interested in participating in it. Similar ideas were the hope of James Madison.

The Virtuous Voice of the People as the Voice of God

Popular republican government was based on a political idea that community and its government, and with it virtue in a society at large, originated ultimately in the consent of the people, the essence of popular sovereignty. The idea of popular sovereignty had yet deeper assumptions crucial to understanding the American idea of a virtuous republic. The first assumption rested on the belief that the American people, with time, could distinguish between what was good, that is what was congruent with their values, long-term interests, common rights, but also what was congruent with moral sense, in fact universal natural law as such, and what was not. This assumption indicated that the people could not only discern their own interests, but also proper moral conduct, universally valid.[134] It was thus clear that the sovereignty of the people as a basis of decision of the common good commensurate with the objective, universal moral order, was superior to any other. This was so for the simple reason that it stemmed from the consent of all, who had an equal right to participate on the basis of their moral sense over the good of the community. This moral sense was defined here traditionally as a "well informed conscience",

---

[132] *Ibidem*, p. 174–175.

[133] *Ibidem*, p. 272–285; J. Wilson, *The Works of James Wilson*, Cambridge 1967, ed. R. G. McCloskey, Cambridge 1967, p. 238–239, 241–242, 284, 587, 598, 608.

[134] This was the gist of a famous quip by the father of the modern American conservative movement William Buckley, who said that he would prefer to be governed by the first hundred names from a Boston telephone directory than the faculty of Harvard University.

or "right reason", determining the duties commensurate with natural law, that is the objective moral order demanded by God.[135]

The good of the community can thus be properly ascertained, if all participate in an argument on the basis of each one having equal access to moral sense, to the capacity to be able to discern virtuous behaviour. The mechanism of that consent was exactly the task for the Americans to execute, but the axiom of all having an equal right to decide over their common good was unquestionable. It was taken for granted that it stemmed ultimately not from political theory, but from natural law grounded in God's precepts, that is, in the conditions of the eighteenth-century America, Biblical God. The social contract was just, not only because it was best suited to limit tyranny. It was just because it reflected the best way of creating a just society, the best way to discern the virtue which was to govern society through the consent of all, equally endowed with "well informed conscience", moral sense, which in the process of deliberation can best be discerned.

Such was the modern democratic and republican meaning of the idea that "the voice of the people was the voice of God". This was so, because it was the voice of the people endowed with a moral sense, the best way of creating a just, virtuous society accessible to humans.[136] Direct democracy was impossible as yet, so representative democracy was required. As a consequence representative republican government was a constitutional device to execute this voice of the people. All the people have the right reason to have a well informed conscience, but "well informed" assumed differentiation of knowledge, character, information. At a civil-society level this task of forming such a differentiated conscience, a natural process of life, personal predilections, character and choice, belonged to associations like families or churches, and they were crucial. But at the political level representation had one advantage. It was to select people who have better information, time, capacity for virtues, private as well as public, and simply interest in serving the republic. Representation was sovereignty of the people by proxy, by people chosen in trust for the time being, to discern the common good in a much more objective way and assist the people in their deliberations.[137]

---

[135] One may argue that this idea is not as novel as it seems – it could be detected in Harrington's Oceana, see: *ibidem*, p. 56–58.

[136] There is thus a subtle difference between the American and the European understanding of democracy. When Europeans and Americans talk about democracy today, they do not necessarily talk about it in the same way. In Europe democracy equals, first of all, the legal rules and procedures. In the United States this idea has a more spiritual, metaphysical, so to say, meaning, well captured between the lines in Tocqueville's, *Democracy in America*. Democracy is a kind of "religion" and a constant process of selection, or of putting the best people into positions of power. There is a strong populist streak in this understanding of democracy, an accusation that Europeans often throw at Americans, but for Americans this is yet further proof that the European democracy is elitist and aristocratic. See on that for instance G. Sorman, *Made in the USA*, Warszawa 2005, p. 148–166, also D. L. Bark, *Americans and Europeans: Dancing in the Dark*, Stanford 2007, p. 14–15; A. Bryk, *Federaliści u władzy*, [in:] *Historia Stanów Zjednoczonych*, ed. A. Bartnicki, D. T. Critchlow, Warszawa 1995.

[137] P. Ch. Hoffer, *The Law's Conscience*...

The Americans knew that they stood under a source of moral authority beyond themselves, and for this very reason the public reason had to be grounded in reason aided by religiously informed conscience, thus making religiously informed public philosophy not only legitimate, but necessary to secure "ordered liberty". They were aware, more or less consciously, that morality may not require religion, as a matter of sheer logic, but logic was not the basis of operation of a modern republic, an "ordered liberty" regime. It could not be, since reason could never provide logic which could be accepted by heart, that is as part of indelible feature of character, save by a prolonged and ubiquitous system of mass indoctrination by a state and an elite which would define such logic. Reason unaided by its transcendental sources of justification would eventually justify desire of the moment, not sacrifice which was needed for a moral conduct, without which a modern republic, an "ordered liberty" regime can function. That fundamental morality for an "ordered liberty" had to be grounded in religion as a matter of mass psychology, as an unreflexive urge to gaze higher than oneself, to sacrifice than to seek an immediate gratification, and last but not least, to love not just to reason.

Love can never be taught by reason; love can only be inculcated and promulgated by those whom we trust and love by instinct, by the immediate circles of intimate connections, family, churches, associations. Love can thus be taught only then, in the absolutely free civil society, by unreflexive gestures of affection which, accepted, are then passed further with the same intention, so to pay the once accepted moral debt. And ultimately, love being offered for a republic as an unreflexive gift, meetings with others. The Founders understood that modernity, having a tendency to turn to moral autocreation, the adulation of individual desire, the idolatry of the narcissistic self, was a beast in itself. It created social, economic and political problems, issues which were not matters of rational concern and utilitarian solutions, but ultimately questions of the nature of the human person. There was no morality in commercial modernity per se, which made a "pursuit of happiness", equated with moral autocreation and the superior value of autonomy of the self, a danger to an "ordered liberty". The corrosive effects on ethical standards of American society, considered to be "good", were a possibility. It was this commercial modern impulse which was to be harnessed, by reasoned argument, but with a concept of a human person larger than a motley of the accelerated desires of the present, kept in check simply by an administrative, distributive state. The regime was to harness greed, idolatry of the self, to an impulse of limitations lying beyond rational calculation or institutional arrangements.

This harnessing was a task, rational to be sure, but propelled by love of liberty, properly understood. This task was to be done by the extra-economic factors in the civil society, and secured by a carefully designed institutional system. It required a robust culture, self-replicating impulses, which would transcend debilitating effects of commercial modernity. Culture cultivating character, that is virtue which would make a man better than he would like himself to be. This culture was threatened by

atomization. There was a danger that in such a case someone would have to impose a new model of cultural orthodoxy. This someone would be the new administrative state operated by the elite of a particular time and place, convinced that they finally possessed the truth as to how "ordered liberty" should be imposed. Culture would ultimately begin to be treated not as a field of dialogue of free individuals, but as a province of politically correct categories imposed on the public discourse from the top down. Knowledge about ourselves, who we really are as free persons, would be dictated ultimately by the *cognoscenti* and their morals of a particular time, without any weapons to defend one's real autonomy and freedom. Culture and morality would become a motley of distracting campaigns to form useful, mobilizing moral causes, so to provide atomised individuals with the directives from the top, to assuage their fear of freedom and a loss of direction.

Reality would have to be tamed, as it always has been, but tamed by the professionals knowing how to do this. Intimacy with reality would be provided not with consciences properly formed by human persons, but by "experts" dispensing manipulative, atomized, sequestered and isolated knowledge satisfying peoples desires, both to help them understand reality by imposition of a "proper" understanding of it, and to provide them, from top down, a sense of ontological security. Security in such a case might only be spurious and momentary; it would have to be constantly redefined and packaged for a mass consumption, a new idolatrous "religion" and the sin of modernity. The painful experience of the tortuous knowledge who we really are, through the formation of moral character mediated by real love and personal responsibility, will be lost. With that, responsibility and sacrifice will be lost and with that caritas as well, the ultimate prerequisite of a decent, free regime, the only knowledge which does not leave people as isolated, helpless creatures, desperately seeking guidance and external authority, not aware of their slavery and moral wilderness.

The American project faced such a challenge, and this was a challenge the Founders were ready to meet. Theirs was not the radical revolutionary project which characterized the rational endeavour of the European Enlightenment. The unbridled, passionate, rational approach to change, with point zero in history and its apocalyptic reliance on violence and political assassination, was not their way. The French wanted to combine wisdom understood as reason with power. The result was the conviction that wisdom did not require modesty, and power rationally applied contained no risk. The American founding moment was infused with prudence, a key word for the Framers, or, to put it better, reason in the service of prudence, not of ideological passion.[138] Prudence is an essentially conservative virtue,

[138] See for instance: *The Federalist Papers*..., p. 258, 280, 283, 352, 376, 400, as a guide to decisions p. 203, 254, 378, 380, 448, 491, 527, as a political virtue: 162, 177, 197, 200. Prudence is the thread of all the Anti-Federalists' thinking in relation to the Federalist project. Prudence was a theme which was to guide all reforms since the assumption was that the civilization which was American was essentially good, and when tinkering with it, one was to be very careful. See for instance: *American Political Writings during the Founding Era*, ed. L. Hynem, D. Lutz, Vol. 1, Indianapolis 1983, p. 593–594. A very interesting analysis of the pruden-

relating to many things or goods, but its underlying characteristic is an acceptance and a defence of that which is given or that which already exists. Prudence thus had a deeper assumption yet, an innate conviction that the real world as it exists and in which we conduct our affairs has an intrinsic, objective, universal worth.

In such a world in which we conduct our affairs, the world of our experience has a sense of moral gravity which we may not necessarily understand fully, but which we have to approach with reverence, in humiliation towards ourselves and experience accumulated by generations before us. In other words, that our lives in this world transcend our sheer biological nature, our desires of the moment, our adulation of the self, and that this world teaches us something meaningful enough. This intrinsic meaning of the world prevents us from considering it as a material of a constant, incessant manipulation according to the dictates of reason and desires justified by it, to wit our *hybris* of thinking that history, time, morality, wisdom begins with us, and we are the final, properly thought out point zero of history, and at the same time "end of history". But this intrinsic meaning of the world also prevents us from the unintended consequences, and the other side of this hubris of "point zero", the shifting sands of our mind, unguided by anything save our self-consciousness. This mind has a tendency then to slide, in a frantic attempt to grasp anything concrete, solid and ontologically secure, towards the nihilism of resignation, acedia, or mindless hedonism, in the face of intractable being.

Prudence is a conservative virtue, because this is essentially the tenor of conservative virtue where the objects of virtuous action are accustomed goods. Action is virtuous because it supports the pre-existing moral order rather than attempting to create a new and supposedly a better order.[139] Therefore the man who wishes to be free from demands of his community cannot act virtuously, for he tries to divorce himself from the attachments that are the basis, and the very embodiment of virtues, among them virtues of love and gratefulness. Nonetheless, a virtuous man cannot be the mere creature of the surrounding circumstances, let alone the blind custom, but he must judge for himself, in an independent way, to serve his community. There is thus a blending of reason coupled with features of character different from it, which together, on the basis of prudence, are the real source of knowledge about ourselves, our true existential situation, the very essence of the good life.

Americans were less concerned with a transformation of the entire system with an apocalyptic reliance on violence and reason as bearers of historical and existential sense. Their revolution was, in comparison with the European one, definitely more "compassionate", with its use of persuasion and legal mechanisms to achieve radical ends of preserving an autonomous world in which they lived, its at-

tial character of the American regime, with a special stress put on the Founding and on Abraham Lincoln's *Gettysburg Address* is G. Anastaplo (*American Constitutionalism and the Virtue of Prudence: Philadelphia, Paris, Washington, Gettysburg*, [in:] *Abraham Lincoln, The Gettysburg Address, and American Constitutionalism,* ed. L. P. S. de Alvarez, Texas 1976, p. 77–170).

[139] B. Frohnen, *Virtue and the Promise of Conservatism: The Legacy of Burke and Tocqueville*, Lawrence KA 1993, p. 39–40.

tachments, its solidarity, its basic goodness.[140] The feud between the Federalists and the Anti-Federalists was in such a case a purely internal affair of an argument over the means, not the ends, of the regime recognized as essentially good. This world in which they lived was defined and experienced by them as virtuous life of a community. This community was "dedicated to a proposition", in conditions of "ordered liberty", but which was in a precarious state, always in need of vigilance. Last but not least, this community was always in need of heightened attachment to the real world they truly loved, which was their *patria* and the *patria* of all the people at the same time, the "last best hope of mankind". The latter two statements have many a time elicited derisive shrugs from the haters of America as its cover for imperialistic urges, but this is a misunderstanding of what such statements mean.

In America everything began at once. What modernity hid dramatically in stock for humanity was experienced there in a condensed form from the beginning, and it was America which met this challenge with the most brilliant, politically pragmatic minds modernity at that time could muster. They created a civilization which was to guarantee "ordered liberty" in conditions difficult yet to comprehend, but conditions which accelerated tendencies of the looming and menacing potential the whole world was soon to experience. Americans, with all their shortcomings, some of them tragically self-inflicted and selfishly perpetuated, created overall a decent society of free people. They devised a system which, after all the vicissitudes of modern history, and the ravishes of modernity to the human soul, is still propelled by a burning love of liberty and heroism to defend it, a love of meaning which is worth fighting and dying for, the highest virtue of all. The haters of America in fact hate themselves, since – as the Irish writer Brendan Brehan remarked – they in fact hate the human race at this torturous time of modernity into which it was God's wish to put us all.

[140] H. Arendt, *O rewolucji*, Warszawa 2003.